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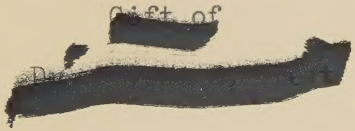

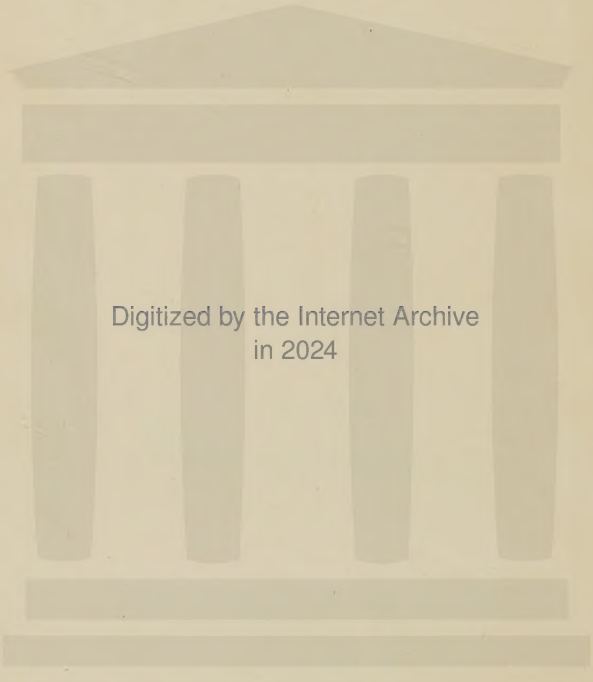
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# MODERN CHINA

## A POLITICAL STUDY

BY

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# PREFACE

This book is an attempt to deal with some of the important problems which confront the Chinese statesman and diplomat, and those who have anything to do with China. It has been the author's hope to give a true picture of things in the Far East and to suggest constructive schemes for every subject touched upon. He has tried to avoid patriotic bias and to discuss politics with disinterestedness; and it is hoped that he has not altogether failed in his efforts.

The world has become small through the rapid means of communication and through the economic interdependence of its different parts, and it is certain that, before many years have passed, a country with a territory extending over four million square miles and with a population of nearly four hundred millions, will play a far more important part in the intellectual and economic developments of the world than it does at present. It will indeed be most gratifying to the author should this book afford some food for thought to readers interested in human progress and international relations.

Most of the chapters were written while the War was still in progress, and that explains the present tense in Sections 2 and 3 of Chapter 9 (on 'China in the War' and on 'Chinese Labour'). Section 1 in the same chapter has been revised since the Armistice, and again since the signing of the Peace Treaty.

The Peace Conference, which required the author's

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presence in Paris, has interrupted his work, and has made it impossible for him to give reference notes to many of the statements based on authoritative works or official documents. He is leaving for America while these pages go to the press and has to entrust the work of making an index to his publishers, to whom he wishes to express his thanks. To the numerous friends who have been kind to him, and made him feel at home during his five years' stay in Great Britain and France, it will be impossible (if not out of place) to express individual thanks, but among those who have been helpful to him in the preparation of this work, he is deeply grateful to Viscount Bryce and to Viscount Burnham for the valuable information they have given him. He is equally indebted to Sir John Macdonell (King's Remembrancer and Master of the Supreme Court), to Sir Francis T. Piggott (late Chief Justice of Hong Kong), to Professor Gilbert Murray (of Oxford University), to Mr. G. Lowes Dickinson (of King's College, Cambridge), and to Professor Graham Wallas (of London University), for useful information and critical suggestions. One of his countrymen, his Excellency Dr. V. K. Wellington Koo, Chinese Minister at Washington and plenipotentiary delegate to the Peace Conference, has taken great interest in this work and it will be only fitting to record here the deep esteem and respect which the author has long entertained for the distinguished diplomat. To complete the list of acknowledgements, it will be necessary to thank the British Foreign Office Library for the loan of some Blue Books.

S. G. Cheng.

*August*, 1919.

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# PART I

## I

## *Historical Conception of Chinese Government*

In ancient times, when the Empire of China was not larger than any one of its present-day provinces, the Emperor was approachable to all, and there were facilities for the people to express their opinions on the government of the country and to give their advice. Thus, we find in the Canon of History the following passages:

'Emperor Shun asks for advice in the regions of the four sacred mountains. He throws open all the doors of Communication between the Court and the Empire, and seeks to see with the eyes of all and hear with the ears of all.' [1]

'Every year in the first month of spring, the herald with his wooden-tongued bell goes along the roads in order to let the people speak out their minds; officials and instructors all send in their admonitions to the Emperor; and workmen engaged in mechanical affairs remonstrate on the subjects concerning their business.' [2]

At the time of the Chou dynasty (1122–255 B.C.), when the Empire had been extended, it was no longer possible for the Emperor to receive addresses from all his subjects.

[1] Legge, *The Chinese Classics*, vol. iii, pt. i, p. 41.

[2] *Ibid.*, vol. iii, pt. i, p. 164.

A system of selection was then adopted which required the headman of every village (Shang-lao) to recommend scholars of distinction to the Government for employment in appropriate positions. At a later time the number of persons to be recommended from a district was made proportional to its population. The primary object of this recommendation was to get men of talent for Government posts, but incidentally it became a means through which the people participated in the government. Scholars were believed to be leaders of men and to understand their conditions and wants. In employing them in Government service, the Emperor was supposed to give the people representatives to express their views and to conduct the government on their behalf. The respect for scholars had always been very great among the Chinese; and their selection as representatives was determined by previous achievements in local politics and popularity in their own districts, which popularity was created by 'their sincerity and faithfulness in fulfilling their fraternal and filial duties', in addition to their scholastic skill. Moreover, the system of selection was considered to be very democratic, because the field was open to all who proved themselves intellectually equipped for the task. To students of modern history and political science it should perhaps be mentioned that, in ancient times, there was no separation between the legislative and the executive powers, and a participation in government meant participation in both functions.

The system of recommendation was changed into competitive examination in the sixth century A.D. during the Sui dynasty. The qualifications required of candidates were no longer notable achievements and distinguished conduct, but ability to recite classics and to compose poems

and prose. Fluent recitation and literary distinction were no guarantee of capacity for government, and the representative idea disappeared with the introduction of an examination which was only a means of recruiting civil servants. But it was still believed that the examination embodied a democratic principle of government, because it was open to candidates of all kinds, irrespective of their faith, wealth, social standing, or family traditions, and any one who was sufficiently intelligent to pass it had a chance of participating in the government. But in practice, it was difficult and laborious to remember classical texts and to write good poems. An education in these subjects was long and expensive. The result was that only those who were comparatively well-to-do or, at any rate, enjoyed some special advantages could afford to prepare themselves for an examination. An 'intellectual' aristocracy was thus created which governed the country without any regard to public sentiments, and the cleavage between governors and governed became marked.

It was argued, however, that as the influence of the Confucian classics was very strong over the Chinese—stronger than that of Holy Scriptures in other countries—it was the classical spirit that really governed China. In fact, it has been said that even though Emperors and officials of China were not restricted by any constitution and not controlled by any representative assembly, the Confucian classics took the place of a constitution and the Confucian influence that of representative institutions. In that sense, China was a constitutional monarchy of a perfect type.[1]

[1] This is the argument of a compatriot of mine, told me by Professor Graham Wallas.

Let us examine the truth of this statement in the light of Chinese history.

First, it should be made clear that Confucian doctrines could only be established by moral force, or in other words, by the conscience of rulers. No physical force was available except a revolt, which could not often take place. Human nature is defective; and human beings all the world over have failed to live up to the ideals that religious prophets have set before them, and no exception can be made of the Chinese. According to the classics, 'only the virtuous becomes Sovereign', but, throughout the greater part of Chinese history, Emperors were either impotent mediocrities or intolerable despots, levying heavy taxes on the people in order to enrich themselves. Some of them failed to control powerful and ambitious ministers and court eunuchs, and finally were dethroned by their intrigues.

'Heaven will not tolerate an Emperor lacking in virtue.' It is therefore incumbent on virtuous persons to overthrow tyrannical and oppressive monarchs. The twenty-four revolts recorded in Chinese history, each of which succeeded in replacing one dynasty by another, may be justified by the necessity of saving people from the misrule of hopeless Emperors, but the persons who raised the standard of revolt and founded dynasties of their own were not always virtuous. Many of them had been robbers and brigands, or, to use a Chinese expression, 'heroes in forests and marshes'. Some were illiterate, could not read the classics, and had never heard of the doctrine that a Sovereign must be virtuous. At the time of their revolt, they had probably been forced by economic stress to take violent measures without any desire to improve the condition of the people. It often happened that, in the interval between the over-

throw of an old dynasty and the successful establishment of a new, there were several rival leaders who aspired to the throne and competed for supremacy among themselves. It is acknowledged that 'those who are successful become Emperors' and 'those who fail become "rebels"'. Historians always attribute to founders of new dynasties many virtues which they do not possess, and disparage defeated 'rebels' out of proportion to their actual faults or shortcomings. In other words, the worship of success has become so strong a habit among the Chinese, that they are always ready to believe that a successful leader is favoured by Heaven.

On the other hand, it must be acknowledged that, whatever their previous records, the founder or founders of a new dynasty are always capable, active, and energetic. They may not be so well-trained in the classics that they become virtuous rulers, but they always employ the best scholars and most competent ministers to conduct their government. The founders of the Han, the T'ang, and the Ming dynasties, though they were respectively a brigand, an ill-bred soldier, and a monk during their early years, were all remarkable and admirable as rulers of men as soon as they had ascended the throne. They all made splendid offerings at the temple of Confucius, revived and propagated his teachings, and appointed men of administrative ability and constructive genius to important positions. They encouraged agriculture by letting peasants have free land; they extended commerce by reducing taxation and improving the means of transport; they established schools over the whole Empire; and they invited the services of those who were possessed of technical skill but could not pass an examination.

A more remarkable instance is that of the Emperor Kang Hsi of the Manchu dynasty. In the early years of his life he was not brought up in the orthodox Confucian school, but as soon as he became Emperor he instinctively adapted himself to the classical ideals of a virtuous Sovereign. 'No discrimination was made in official appointments between the Manchus and the Chinese, but all were appointed according to their ability.' He made special efforts to extend education by building libraries and schools in the Empire, and by compiling and revising standard works under the Imperial auspices. He also introduced western science and art into China through his contact with Jesuit missionaries.

The government of China would, indeed, have always been efficient and her history different, had all the Emperors of the successive dynasties been as Confucian as their first Imperial ancestors. The tragedy was that, when peace and prosperity had reigned in the Empire for one or two centuries after each revolt, the ruling Emperor always became idle and corrupt, and his government incompetent and inefficient. Indulgence, ignorance, intrigues, and finally the habit of inertia brought about his decline; and eventually, in his lifetime or in that of his successor, the dynasty succumbed to the revolt of some active and ambitious men, just as the dynasty preceding it succumbed to that of his ancestors. The rise and fall of different dynasties seem to have proceeded in accordance with a periodical law, and the government of the country to have oscillated at all times between two extremes—great efficiency and great corruption.

In the provinces, the efficiency of government depended almost entirely on the personal character of the Emperor

and his ministers. If they were enlightened and public-spirited, they would, in the first place, choose capable and disinterested officials for provincial and local posts; and in the second, they would command respect from provincial authorities who, in fear of their justice and honesty in the distribution of rewards and execution of punishments, would refrain from acting corruptly, and would always be ready to promote public interests. If, on the other hand, the Emperor and his ministers were ignorant and corrupt, the provincial officials would always be tempted to a neglect of duty and to an indifference to provincial or local welfare. Moreover, under a corrupt Central Government, provincial and local officials were obliged to make money out of their positions in order to retain office and pay tribute to, and meet the arbitrary exactions of, the Central Government. Under these circumstances, it is difficult to expect a viceroy or a magistrate to be attentive to his duty and to maintain the efficiency of his administration.

From what has so far been said, the conclusion may be arrived at that the classical ideals of government are lofty and have much to recommend them; that the observance of these ideals depends almost entirely on the personal characters of rulers; and that as ideal rulers only appear at long intervals, the government of China sometimes rises to these ideals, and sometimes falls short of them. To use the expressions of modern political treatises, China has always been governed by 'rule of men', and not by 'rule of law'. 'Rule of law' maintains a certain standard of efficiency for all times, unaltered by a change of personnel; whereas 'rule of men' makes the standard vary according to individual integrity. The contemplations of Confucius do not touch upon 'rule of law', as he himself confessed

that if ' proper persons exist, proper administration is carried on, but when they are dead, it stops '.[1]

It is inexplicable that the Chinese should have remained content with a periodical oscillation in the efficiency of their government. Throughout their history, they have created nothing like a direct participation in government, or even an indirect participation through elected representatives responsible to themselves. They revolt against tyrannical rulers, but they have no permanent safeguard to prevent the rulers from becoming tyrannical. What they have done is to develop self-government in their municipal districts, independent of authorities appointed by the Central Government, and exercising a certain amount of control over them. But there is nothing in the nature of self-government for the whole Empire. In the capital, the seat of Central administration, the Emperor and his ministers were supreme.

The so-called self-government in municipalities is carried on by the family, the guild, and the gentry. It will be essential to describe briefly each of them in turn.

In the social organization of China, the family plays an important part ; and the family often means a whole clan. In modern Europe, such duties as elementary education and poor-relief fall upon the local authorities ; but in China they fall upon the head of a family, possessed of an authority extending even to matters spiritual and giving him a position analogous to that of an English churchwarden of the seventeenth century, some of whose duties might be com-

[1] *The Doctrine of Mean*, chapter 20. Dr. Legge's translation runs as follows : ' Let there be the men and the government will flourish ; but without the men, their government decays and ceases.' See Legge's *Chinese Classics*, vol. i, p. 269.

pared with that of making provision for ancestral worship at a family shrine.

In rural districts, several families are grouped into a village, and the elders form the village gentry, who maintain roads, enforce sanitary measures, and provide public education and poor-relief to those who are not already provided for by their family. They also form the judicial authority in the sense that they arbitrate in civil disputes, and sometimes even try criminal cases between villagers. In any business which must be brought to the notice of the magistrate of the district of which the village forms a part, these elders, or gentry, always act as intermediaries between the official and the villagers, and they are also sometimes delegated by the magistrate to collect the land tax.

In a city the inhabitants, mostly engaged in various trades, form different guilds, which enforce discipline on their members and arbitrate in their trade disputes. Every guild is responsible for the maintenance of its poor members and their families, and also for the education of their children. It often happens that several guilds combine for an enterprise which is of common interest to all guilds, or too expensive and strenuous for one guild to undertake. In many towns, for instance, guilds support institutions for infants and widows, who have otherwise no means of subsistence. Their leading members, together with some retired officials and men of literary eminence, form the city gentry and have some authority in local administration. In the provincial capital, the gentry are drawn from similar classes. They are powerful and often exercise strong influence over the provincial governor or viceroy ; and in any enterprise that affects the whole province they have their voice. But as communication between the different parts of a province

is difficult, the provincial gentry have not proved so successful as those of the town or of the village. They do not always act in concert with the leaders in different centres of the province, and their activities have been confined to the provincial capital rather than extended over the whole province. In cases like river conservancy or famine relief, which affect more than one town (if not the whole province), they invite the co-operation of the gentry of other districts ; and, in times of conflict with the viceroy or governor, they also take collective action with them.

The numerical strength, the influence, and the activities of these bodies of gentry vary in various parts of the country, but the system is universal. It is this system that has governed the Chinese for centuries. It is this system that justifies many foreign observers in describing China as 'one of the most democratic countries on earth' and as 'a vast self-governed, law-abiding Society, costing practically nothing to maintain and having nothing to apprehend save natural calamities and national upheavals'. Such a system was not anticipated in the Confucian classics. In fact, the classics reserve the duty or privilege of government to scholars and deny farmers and merchants, who are now prominent as members of the gentry, any influence in administration. It is indeed due to the failure of the competitive examination to produce benevolent and efficient administrators that the people are forced to take this step in self-government.

The family and the guild may be efficient organs of local government, but they are strictly local and do not incite their members to look beyond their limits. They have all failed to create a national spirit among the Chinese.

The secret, however, is that till recently the Chinese

required very little government. They have developed self-control to an extraordinary degree; and law-abiding spirit has become their second nature. The family, the guild, and the gentry, though imperfect, have been adequate for their requirements and have satisfied their wants. Moreover, the spirit of tolerance and compromise, characteristic of the Chinese, has enabled them to live peacefully with their Government officials, provided the latter do not interfere with the individual freedom that they have so jealously protected.

The introduction of modern industrial and economic life into China has altered her social position. Modern activities have grown up which are beyond the capacities of the family, the guild, or the unorganized gentry to regulate. Changes have come; and more are bound to come, even in a country reluctant to give up its old tradition. New government machinery has to be created and the old improved and reorganized. The existing system of self-government may be a good nucleus of a new system more elaborate and more scientific, and China's statesmen should realize that, whenever possible, new structures should be built on old, tried foundations.

## 2

# *Political Situation since* 1911

### § 1. *The Revolution*

Poverty and distress produced by increase of taxation and unemployment are said to be responsible for the Revolution, but the Revolution of China, unlike that of Russia or France, is no campaign against the bourgeois or propertied class. True it is that poverty is always productive of disturbance, but the Revolution, unlike other disturbances in China, is not initiated by the bulk of the peaceful, industrious, and yet poverty-stricken Chinese. It is initiated and organized by politicians, directed against a political régime in order to achieve certain political ends. It is therefore political reasons that explain the outbreak of the Revolution; and the poverty, ready to create riots, is only a subsidiary cause which facilitates, but does not promote, an upheaval so momentous and so far-reaching in its consequences as the destruction of a political system four thousand years old and the establishment of a régime not only novel to the Chinese but also to many other races.

The political reasons are twofold, the internal and the external. The internal reason is the Manchu misrule, and it will be recalled that revolt against a bad government has been frequent in Chinese history.[1] To expose the misrule of the Manchus, one need only recall that after Ch'ien Lung (1736–96) successive Emperors were all mediocrities;

[1] See chapter 1, p. 4, *supra*.

that the Taiping rebellion, which set ten provinces in ruin and killed twenty million people, was only pacified after ten years' struggle and with the assistance of foreign military experts; and that the Boxer rebellion, which led to the occupation of Peking by foreign troops and inflicted insupportable humiliation on the Chinese, was first tolerated and then encouraged by the Manchu Princes. Added to a consciousness of the Manchu misrule, the racial hatred of the Chinese against a foreign dynasty was another cause of revolt.

The external reason is that the Manchu Government had shown its utter incompetence in dealing with foreign powers, ever since the opening of the country to foreign trade. The reverses in war, the loss of territory, the grant of concessions which threatened the independence of China—all reacted on the thinking Chinese and brought censure on the Manchu Government. The rise of Japan as a Great Power and her victory over the Russians made the Chinese realize that, provided they organized themselves on modern lines so as to be able to resist foreign pressure, they could not only survive as an independent nation, but also raise themselves to the rank of a great modern state. The demand for internal reforms was thus insistent, and a dissatisfaction with the answer of the Government to their demands caused them to resort to violence for the achievement of their aims.

Dr. Sun Yat Sen was the first man to organize revolutionary societies with the object of overthrowing the Manchu dynasty and establishing a Republic. He had attempted several times in vain to capture Canton, and, as an exile in foreign countries, he had secured many converts and supporters for his revolutionary schemes. In the Chinese communities in America and Japan his influence had been strong,

and politicians in these two countries who became prominent in the Revolution were mostly his disciples.

On October 9, 1911, a plot to assassinate the Viceroy was discovered in Wuchang, in the province of Hupeh; and the execution of the would-be assassins made their fellow conspirators desperate and hastened the outbreak. Within a few hours after the execution, the city fell, the Viceroy fled, and the greater part of the provincial army mutinied. On the receipt of this alarming report, the Imperial Government dispatched General Yin Ch'ang, then Minister of War, with a few divisions of the northern army, amounting to 30,000 men, to reinforce the provincial troops who remained loyal. But before the general reached the scene, several cities in the same province, besides the Hanyang Arsenal, fell into the hands of the insurgents; and other provinces also joined the revolutionary chorus by proclaiming themselves independent of the Imperial Government.

The Prince Regent, confronted with this difficult situation, found himself unequal to the task. He began to grant liberal concessions to the nominative National Council then in session, and proclaimed a constitution, which reduced the Emperor to a figure-head and vested governmental power in a legislature to be elected. He recalled Yüan Shih-k'ai, whom he had dismissed from the post of Minister for Foreign Affairs in the preceding year, and appointed him Prime Minister. Finally, he retired from the regency in order to enable the responsible Cabinet to exercise its full authority. Yüan Shih-k'ai was the creator of the Chinese new army and commanded respect from officers and troops. He had held viceregal posts in more than one province, and had long enjoyed the confidence of his subordinates. It was therefore thought that the troops whose

loyalty to the throne was doubted, would at any rate remain loyal to their originator, and that provincial authorities infected with revolutionary ideas would be deterred from deserting the Imperial Government by their affection for the Prime Minister.

By the time that Yüan Shih-k'ai came to Peking from his home in Honan, the Revolution had assumed a much more serious outlook. It had already reached thirteen provinces, and the area affected was nearly half the extent of the Empire. South of the Yangtze River, the revolutionary fever spread like wildfire and infected district after district. The Republican flag, together with a banner bearing the characters 'To drive out Manchus', was hoisted on many buildings, and newspaper offices in Shanghai and in many other towns were besieged day and night by huge crowds for news announcing the success of the revolutionary arms and the adherence of this or that province to the revolutionary cause.

The Revolutionaries, though they took the Imperialists by surprise and gained the support of many provinces, were inferior to them both in military and in financial strength. The northern army, which remained loyal to the Emperor (or to the Prime Minister), was better trained and better equipped than the revolutionary recruits or the Southern Army, which had adhered to the Revolution. The battle near Hankow led to the recapture of Hankow and Hanyang by the Imperial force, and it is almost certain that it could have captured Wuchang and destroyed the nerve-centre of the Revolutionaries. But by this time, December 1911, both sides sought peace and arranged an armistice. Envoys were sent by the two parties and conferences were held in Shanghai to discuss terms of peace. The Revolutionaries

insisted on the abdication of the Emperor and the establishment of a Republic ; while the Imperialists urged that the form of government should be decided by a National Convention. The Convention was, however, never held.

On January 1, 1912, a Republican Government was established in Nanking with Dr. Sun Yat Sen as its President, and with an assembly, consisting of delegates from the provinces which had joined the revolt, as its parliament. A provisional Constitution was drafted, adopted, and proclaimed by this assembly and became the fundamental law of the Republic, pending the promulgation of a permanent Constitution. Six executive departments were created to co-ordinate the different provinces which had not hitherto recognized a common authority.

Speaking for the Imperial Government, Yüan Shih-k'ai defined his policy in the following statement :

'I doubt whether the people of China are at present ripe for a Republic or whether under present conditions a Republic is adapted to the Chinese people. . . . The adoption of a limited monarchy would bring conditions back to the normal and would bring stability much more rapidly than that end could be attained through any experimental form of government, unsuited to the genius of the people or to the present conditions in China. . . . My only reason for favouring the retention of the present Emperor is that I believe in a constitutional monarchy. If we are to have that form of government, there is nobody else whom the people would agree upon for his place. . . . My sole aim in this crisis is to save China from dissolution and the many evils that would follow.'

Republicans were, however, not deterred from their demand for a Republic which, they considered, had already been accepted by thirteen provinces and was therefore properly established. It was believed that after the recapture

of Hanyang, Yüan Shih-k'ai did not pursue his policy of suppression to the end, because he was not loyal to the Imperial Government, but wished to make himself Emperor. It was also believed that as the demand of the Republicans was persistent and his army was not strong enough to overcome opposition to his own ambition, he yielded and accepted the first Presidency of the Republic as a step to the throne. These beliefs, though they have been denounced as baseless by Yüan Shih-k'ai, are now justified by his attempt, in the fourth year of the Republic (1915), to restore the Monarchy by making himself Emperor. I am no lover of the Manchus and no monarchist, but I often wonder whether it would not have been safer and easier for China to move smoothly towards the ideals of democratic government, if it had been possible to retain the Manchu Emperor as a figure-head, and establish a Constitutional Monarchy instead of a Republic.

The month of January 1912 was spent by Yüan Shih-k'ai in negotiating peace with the Republican Government, and in discussing the terms of favourable treatment and pension for the Imperial family after the abdication of the Emperor. It was finally suggested by Yüan Shih-k'ai and agreed by the Republican Government that an annual pension of 4,000,000 taels should be paid to the Imperial family, and that it should be permitted to reside in the Palace in Peking and retain its suite.

On February 12, 1912, the following edict was issued by the Empress-Dowager Lung Yü, the step-mother of the boy-Emperor, Hsüan T'ung :

'As a consequence of the uprising of the revolutionary army, to which the different provinces immediately responded, the Empire seethed like a boiling cauldron

and the people were plunged in utter misery. Yüan Shih-k'ai was therefore especially commanded some time ago to dispatch commissioners to confer with the representatives of the republican army on the general situation, and discuss matters pertaining to the convention of a National Assembly for the decision of the form of government to be adopted. Two months have elapsed and no really suitable mode of settlement has been discovered. Separated as the south and the north are by great distances, the unwillingness of either side to yield to the other can result only in the continued interruption of trade and the prolongation of hostilities, for so long as the form of government is undecided the nation can have no peace. . . . We and His Majesty the Emperor hereby decide in favour of a republican form of constitutional government. Thus we would gratify, on the one hand, the desires of the whole nation, which, tired of anarchy, is desirous of peace, and, on the other hand, would follow in the footsteps of the ancient sages, who regarded the Throne as the sacred trust of the nation.

'Now Yüan Shih-k'ai was elected by the Tzŭ Chêng Yüan (Senate) to be the premier. During this period of transference of government from the old to the new, there should be some means of uniting the south and the north. Let Yüan Shih-k'ai organize with full powers a provisional Republican Government and confer with the Republican army as to the methods of union, thus assuring peace to the people and tranquillity to the Empire, and forming the one great republic of China by the union as heretofore of the five peoples, namely, Manchus, Chinese, Mongols, Mohammedans, and Tibetans, together with the territory in its integrity.'

The issue of this edict was followed by a proclamation of the Union of the North and the South, and of the formation of a United Republic with Yüan Shih-k'ai, in whose favour Dr. Sun Yat Sen had resigned, as Provisional President. It will be seen that the Imperial Government did not suffer, or even acknowledge, a military defeat. The

Emperor retired in a dignified manner under a noble impulse, summarized in this saying: 'As Heaven creates people and makes for them a Monarch, how dare we make them suffer from hostility for the sake of preserving the security and comfort of our one single family?' The Provisional President was virtually appointed by an Imperial Edict, though the appointment was confirmed by the votes of the National Assembly. The truth is that Yüan Shih-k'ai, by means which he thought it wise to misrepresent, succeeded in putting an end to hostilities and in restoring peace. He satisfied the insistent demand of the Republicans without disgracing the Imperial Family.

The question now was how the people, who, as Yüan Shih-k'ai said, and said rightly, were not ripe for a Republic, would adapt themselves to the new régime. Was it likely that they had acquired all the qualities of Republicans during the Revolution, which lasted only four short months? It was even suggested that the popularity of the Revolution and the rapidity with which it spread were signs of their fitness for a Republican government; but the popularity is to be explained by the fact that the economic distress, then prevalent in the country, induced all those who were by fault or misfortune unemployed to welcome any agitation which promised to improve the existing conditions. In the words of Yüan Shih-k'ai, the agitation for a Republic had only taught the people as a mass to believe that popular government means no taxes and no government. Few understood the essence of a Republic or what was involved in Republicanism. Few realized the seriousness of the departure from the traditions of the Chinese which had lasted four thousand years, and few grasped the significance of the issues that it raised and the consequences that it

would produce. Even the Republican leaders themselves, while charmed with the prosperity and wealth in Republican countries like America and France, did not understand the drawbacks and defects of their governmental system.

A Republic without Republicans is not an exclusively Chinese paradox. The same charge had, till quite recently, been made against France. In fact, China is in a position more favourable to Republicanism than the France of a century ago, because in China, though there are monarchists, there is no party influential enough to bring about the restoration of the Manchus, as there was in the cases of the Bourbon and Orleans families in France. Moreover, the Empire was so vast, and the relations between the Sovereign and his subjects had been so remote, that the people at large did not feel any effect produced by the substitution of a President for the Emperor. For centuries the Emperor had secluded himself in his palace and had never been seen by the people. The annual sacrifice to Heaven offered by the Sovereign on behalf of the people only interested a few, and its discontinuance[1] under the Republic (as the worship was thought to be inconsistent with Republican principles) has not caused any disappointment. The popular worship of ancestors was not interfered with by the change in the form of government.

To see whether the Republic has been firmly established, it will be well to survey its history for the seven years, 1912–18. On the inauguration of Yüan Shih-k'ai as the Provisional President, the Nanking Assembly, with the number of its members increased from three to five for

[1] In 1915, Yüan Shih-k'ai revived the annual sacrifice to Heaven, and performed the ceremony as a Sovereign, but it has been discontinued since his death.

each province and with all provinces, revolutionary or not, included, moved to Peking; and the President solemnly took oath before it that he would observe the Provisional Republican Constitution. The Assembly, acting in the capacity of Parliament, proceeded to pass laws on the organization and election of the two houses. These laws were promulgated in August 1912. A parliamentary election took place in October and was complete by the end of the year. Parliament was summoned in April 1913, and took the place of the Nanking Assembly.

The first business of Parliament was to draft a 'permanent' Constitution as a substitute for the 'provisional' one. The majority in Parliament were revolutionaries and did not believe in the sincerity of the President's Republicanism. They forgot that a constitution was a permanent instrument, subject only to occasional amendments; and that it should be formulated according to the conditions prevailing in the electorate, and not according to any personal considerations for President or Parliament. They went on to propose a very democratic constitution, vesting governmental authority in Parliament and leaving the President and Cabinet as its servants. Yüan Shih-k'ai meant to govern the country, and was not content to be a figurehead. He protested against the radical character of the proposed constitution and sent delegates to Parliament to express his objections. The protest was ignored, and the interference by his delegates was considered by Parliament as unconstitutional.

Yüan Shih-k'ai had a difficult and thankless task to perform. He had to make the Government stable and to fill the depleted Treasury. Being capable and ambitious, he naturally chose his trained and trustworthy friends or

colleagues to form the Cabinet; but according to the Provisional Constitution, Cabinet Ministers could only be appointed with the approval of the Houses of Parliament. The majority in Parliament being in opposition to him, many of his nominees were rejected for no good reason. To relieve the financial stringency, Yüan Shih-k'ai negotiated a loan with the foreign banking group in Peking, but according to the Provisional Constitution, or according to its interpretation by revolutionists, loans could only be concluded with the approval of Parliament. Finding that the opposition to the loan agreement would be strong, Yüan Shih-k'ai signed it without asking for parliamentary sanction. This was construed by the Radicals in Parliament as a breach of the Constitution; and prominent members of the revolutionary party in the South raised an anti-Yüan movement. A revolt, or, as it was properly called, a second revolution, broke out in Shanghai, and in a week or two five or six Yangtze provinces joined it.

The rebels, though they got the armies of several southern provinces on their side and occupied a considerable area, were much inferior to the President in their command over military resources. The President, with the whole Northern army and the whole fleet at his service, suppressed the revolt in less than three months, and greatly increased his prestige by this success. Many of the revolutionary members of Parliament who had gone to the South dared not come back to Peking after the suppression; those who returned and those who did not take part in the revolt began to assume a more conciliatory attitude. The drafting of the Constitution was still unfinished, and it was urged that the election and installation of a permanent President was a necessary preliminary to the maintenance of peace in the

country and to the recognition of the Republic by foreign Powers. As the drafting of the Permanent Constitution as a whole and the passing of it into law would take time, it was arranged that the part dealing with the election of the President should be first passed and promulgated. On October 3, 1913, the law on the Presidential election was promulgated, entrusting the election to a joint session of the two Houses of Parliament. On October 8, Yüan Shih-k'ai, after a second ballot, was elected first President of the Republic.

The President, having made his own position secure, proceeded to unseat all the members of Parliament who belonged to the Revolutionary party (Kuo-min-tang), and to order a new election, which never took place. A Council was then nominated to revise and amend the Provisional Constitution. The responsible Cabinet was abolished and the President assumed personal responsibility, not to Parliament, but to the nation. The Prime Minister became Secretary of State, and all Cabinet Ministers were made his personal servants. The Senate which had been elected by provincial assemblies was now made nominative, and the powers of the lower house were greatly limited.

Pending the convocation of a House of Representatives by a new law of election, the Senate was authorized to act in the capacity of Parliament. The law of Presidential election promulgated in October 1913 was now abrogated, and another was passed which authorized the President to nominate three successors, out of whom Parliament was to choose one.

This autocratic régime lasted till the end of 1915. It was by no means Republican, but it was effective in maintaining peace. The President was strong enough to silence opposition and to unite the country by force or by bribery. In

the autumn of 1915 a Society entitled 'Peace Planning' (Ch'ou An Hui) appeared in Peking, the object of which was at first academic discussion on the relative advantages and disadvantages of the Republican and the Monarchical forms of government. Professor Goodnow, of the Columbia University, then constitutional adviser to the Chinese President, published a pamphlet to show that a Monarchy was more suitable to China than a Republic. The 'Peace Planning' Society soon took up the ideas of a pamphlet which bore so authoritative a name, and began to agitate for restoration. Yüan Shih-k'ai had during the preceding year imprisoned or executed several advocates of restoration, as he thought they were injurious to public safety; but, in the case of this Society, he tolerated and secretly encouraged its activities. Officials and army leaders in the provinces were induced by it to declare themselves in favour of Restoration with Yüan Shih-k'ai as Emperor. The Senate, which had been requested by the President to consider the matter with caution, passed a Bill directing each province to choose a number of electors representing different interests, but all under official influence, to vote on the question whether the form of government should be changed into a monarchy. Two thousand electors from twenty different centres all cast their votes in favour of Monarchy with the President as Emperor. The President at first pretended to be reluctant to consent to their request, but finally bowed to this 'engineered' will of the people and accepted the throne.

An anti-monarchical revolt had now broken out in the province of Yünnan, and within a month several adjoining provinces also declared their independence of the Central Government. Many of the provincial authorities who now

revolted had been previously advocates of restoration and supporters of Yüan Shih-k'ai's monarchical scheme. The President, unable to suppress the revolt, renounced the throne and surrendered his civil powers to a 'responsible' Cabinet, retaining only military power to himself. But the Southern revolutionaries demanded his abdication as a condition of peace, and elected General Li Yüan-hung, then Vice-President of the Republic, as their President. For this deadlock, Providence found a solution by calling Yüan Shih-k'ai to heaven. His death in June 1916 put an end to the civil struggle, and General Li Yüan-hung succeeded him in accordance with the Constitution.

The Provisional Constitution proclaimed at Nanking in 1912 and abrogated by Yüan Shih-k'ai was restored, and the dissolved Parliament once more convoked, in August 1916. The problem of a permanent Constitution was again brought up for discussion in the lower house, and the Radical members still insisted on making the legislature all-powerful and the executive insignificant. The Prime Minister, General Tuan Ch'i-jui, though he disliked Parliament, was at first conciliatory; but by June 1917, when the proposed Constitution was on the point of completion, the conflict between him and Parliament became critical.

General Tuan Ch'i-jui, who had determined on war with Germany, requested Parliament to sanction his policy, but the House of Representatives passed a resolution to the effect that while it was willing to consider the declaration of war, it would refuse to discuss the matter until the Cabinet had been reconstructed. The President, acting in conformity with the spirit of the House, dismissed the Prime Minister; but his dismissal was immediately followed by a revolt of several provincial governors who supported

him. An independent Government was formed in Tientsin, and provincial troops threatened to march on the capital. The President, surrounded by more enemies than friends, called to his help General Chang Hsün, then commander of the army in Northern Kiangsu. General Chang's first demand, as a condition of settlement with the provinces in revolt, was the dissolution of Parliament, to which the President was forced to agree, though he was convinced that his action was unconstitutional.

On July 2, 1917, Chang Hsün knocked at the door of the Imperial Palace, and suddenly put the Manchu Emperor on the throne without the previous knowledge or consent of the Imperial family. The Dragon flag was once again hoisted in Peking and the Imperial titles were restored. The President fled as a refugee to the Japanese Legation and the troops of General Chang Hsün occupied the Temple of Heaven.

General Tuan Ch'i-jui was reappointed Prime Minister by the President, who also ordered the Vice-President in Nanking, General Fêng Kuo-chang, to act in his capacity *ad interim*. General Tuan led an army to attack Peking, and in five days' time, after some shelling and bombing of the Palace from aeroplanes, the Imperialists surrendered, and General Chang Hsün fled to the Dutch Legation, where he still remains at the time of writing.

General Li Yüan-hung now resigned the Presidency, because, in his own words, he had already suffered a great humiliation by being forced to dissolve Parliament, and had now fallen into the trap planned by General Chang, whose mediation he had asked to help him in quelling the revolt. General Fêng Kuo-chang came to Peking to assume office, and a new Cabinet under General Tuan Ch'i-jui was constituted.

When General Tuan Ch'i-jui was dismissed in June, the governors of four southern provinces, Kwangtung, Kwangsi, Yünnan, and Kweichou, supported the President and charged the Prime Minister with inciting the Northern governors to insurrection in order to coerce the President and Parliament. On his resumption of office, the South demanded that Parliament should meet and consider his reappointment. To this demand General Tuan has not agreed. A new Parliament has been summoned on a new election law drafted by a nominative council; and this Parliament has even elected a President for the second Presidential term of the Republic, the first term being filled by three different persons. In the next section I shall explain the causes of the war that is now going on between North and South and the measures that I think necessary for its termination.

Reviewing the history of China for the past seven years, I am convinced that the Revolution of 1911 is not yet over; and it is therefore premature to consider whether it has been a success or a failure. So far, the Revolution of China, unlike that of Russia or France, has not been followed by a reign of terror; and the immunity from this greater disaster should console the country for the trouble arising from instability of government and constant petty warfare. In spite of her internal chaos, her trade has steadily increased during the last seven years; and to-day her financial credit stands higher than ever in European markets. Her commercial prosperity is explained by the fact that the mass of the Chinese who till the soil and transport goods are not at all affected by the disturbances, except those in the fighting areas, which extend over less than one-fiftieth part of the whole country. The Government may change, both

in form and in personnel, but the habits of industry and toil possessed by the Chinese will remain unaltered. The indifference of the people to political affairs prevents them, on the one hand, from being useful citizens of a modern democracy, but, on the other, it maintains social stability against political disturbance. The future of China depends upon a training of her inhabitants that will enable them to carry on their government free from any exploitation by political adventurers. We may hope that with the development of popular education in the country and with increasing contact with the West, she will eventually pass through her transitional stage with safety, and that the ship of State will be steered out of torrential and dangerous waters into the smooth and open sea.

## § 2. *North and South*

In examining the political differences between the North and South, it will be necessary to understand their historical distinction.

The civilization of China begins in the North-western corner of the Empire now occupied by the provinces of Shansi and Shensi. In 2200 B.C., when Emperor Yü began to map the Empire, the dominion of the Chinese throne did not extend south of the Yellow River. His successors extended their dominions farther south, but up to the time of Confucius, 550 B.C., the Empire was still bounded on the South by the Yangtze River and the regions beyond it were considered by the inhabitants of the North as unhealthy and barbarous. At that time, it was not the Yangtze River, as it is at present, that divided the North from the South, but the Yellow River, the cradle of Chinese civilization.

The first Emperor of the Ch'in dynasty (221–209 B.C.), with his undaunted energy and strong will, extended his dominions first to the provinces immediately south of the Yangtze and then to the Gulf of Hainan in the present French colony of Tongking. The less civilized tribes, which inhabited the Southern regions, were subjugated and ultimately assimilated Chinese culture and thought; and the districts conquered were reorganized in administration and ruled directly by his iron hand from the capital at Si-an-fu. Military genius and success qualified this first Emperor to be the real and effective ruler over a very vast dominion, and brought him to the same height of glory and power as that attained by Caesar or Bonaparte. From this time onwards, the North and the South of China were changed and enlarged in extent; the dividing line was no longer the sandy and shallow Yellow River, but the Yangtze-kiang, which is navigable all the year round and passes through the most fertile and most productive districts of China.

Throughout almost all the civil wars that have taken place since the death of the first Emperor, the Yangtze River has been strategically important; and the distinction between the North and the South has become politically significant. In 221 to 265 A.D., China was divided into a northern and a southern Kingdom with the Yangtze as the boundary; and a third Kingdom, the western, occupied the source of the river in the province of Szechuan. In the subsequent years till the foundation of the dynasty of T'ang (A.D. 618–907) China had been divided into many rival Kingdoms, the most important of which were, however, those ruled by the Northern and the Southern dynasties.

The Sung dynasty (960–1127), which succeeded the T'ang, was much troubled by the invasions of the Kitans,

the Nuchens, and the Mongols from the North; and a Southern Sung Empire (1127–1280) was established with its capital in Hangchow, when the invading army of the Golden Hordes had occupied the whole of the northern plain and captured the capital at Kai-fong-fu. The naval defence on the Yangtze secured to this Empire a few years' precarious existence, but the loss of the river to the enemy brought it to an end. When the Manchus conquered the North of China in the middle of the seventeenth century (1644), the South rallied to the falling dynasty of Ming and defied the Manchu authority for many years before it was pacified and united to the North.

From what has been said, it will be seen that the North is more liable to attack from the barbarians outside the Great Wall, and the South has therefore often become a rallying ground for those loyal to the reigning authority. Free from invasions, the South has developed a literature and an art even more exquisite and beautiful than those of the North, from which it received its original civilization.

During the Manchu reign, the South was subject to further influences, which did not affect the North. The Southern Chinese were born sailors, filled with the spirit of adventure. Early in the seventeenth century, they came into contact with the Portuguese and the Spaniards, who were then the greatest seafaring peoples in the world. They imparted to the Southern Chinese foreign conceptions of a far wider range than those of the secluded North. Trade with aliens was viewed with suspicion and contempt by most people in the North, but practised in the South with enthusiasm. The nations of the South, among whom the Cantonese were the leading spirits, showed themselves adaptable to new situations and began to master the art

of scientific navigation and the western method of commerce. To put the psychological difference between the peoples of the North and of the South in general terms, it may be said that the former excel in patience, in caution, and in deliberation, while the latter are unsurpassed in the spirit of adventure, in pushfulness, and in resource.

The difference in psychology has perhaps, to a certain extent, been produced by the difference in climate. The northern climate is of two extremes—intensely cold in winter and intensely hot in summer, but it is warm all the year round in most of the southern provinces. The northern soil is less fertile because the seasonal rainfall is less plentiful. In consequence, much wheat but little rice is grown, and wheat is the staple food in the North just as rice is in the South. Before the opening of the Imperial Canal which connected Chekiang with Chili, rice was as scarce in the North as it was plentiful in the South. Even at the present day, when communication between the North and the South, both by land and by sea, is much more convenient than that in former times, rice is still considered a delicacy in the North, and is only consumed by the well-to-do. By the poor, it is considered a more extravagant form of food than wheat, and less nourishing.

The South has been a manufacturing district since ancient times, while the North has, till quite recently, remained agricultural and pastoral. The embroidery, the gorgeous silk, the magnificent porcelain—all are the produce of the South. In the North, the produce has been that of a nomad people—skins, hides, and wool. The exchange of commodities between the North and the South has taken place since early periods, but, apart from a handful of dealers and business men, the two peoples did not come into contact

with each other till comparatively recent times. The vastness of territory and the difficulty of communication have made it almost inevitable that the North and the South should have each cultivated its own customs and habits. Travel was difficult; newspapers did not exist. Postal service was primitive; pilgrimages were few. Under such circumstances, it was only natural that with the advance of time the North and the South should have differed from each other in political thought and in social outlook.

In spite of these divergent forces there is, however, a single centripetal force which has held the other forces in control. Before its conquest by the North in the third century B.C., the South had developed no civilization of its own. Historians record that its people were then in painted costumes and wore their hair dishevelled.[1] They may have developed a spoken language, but there is no mention of their having possessed any system of writing.

The total absence of any preconceived notions facilitated the flow of Northern civilization into the South. The ideographic language soon became universal in the South as well as in the North, and a uniform system of morality was introduced and observed throughout the length and breadth of the Empire. Confucian classics were studied and preached by scholars in the two halves of the country, and the classical examination was opened to all candidates alike, irrespective of the districts where they were born or brought up. The ceremony of Heaven-worship was performed by the Sovereign for all his subjects, and ancestor-worship was universally believed in and practised. Above all, one and the same written language in every corner of

[1] *The Analects of Confucius*, chapter 18. Legge, *supra cit.*, vol. i, p. 146.

the Empire produced a unifying effect stronger than anything else.

The benefits due to uniformity of language and civilization have, however, been much imperilled by the difference in Northern and Southern dialects. The natives of the North could hardly speak to those of the South except by writing, and writing alone is no easy way of promoting mutual understanding.

Other causes, too, have been at work to keep the peoples apart both before and during the Revolution. Those of the South, especially the Cantonese, owing to their greater facilities for coming into contact with Europeans through travel and commerce, have been much more vividly impressed with the need of introducing Western methods into the Chinese political régime. The Cantonese were the first to go abroad to study in Western universities, and were the first to propagate revolutionary ideas and to organize revolutionary movements. During the progress of the Revolution, the South fought for the Republican cause with determination and of their own will, but many Northern provinces remained loyal to the Imperial Government, and those which severed their allegiance to it were prompted to do so more by the motive of escaping the attacks of the Revolutionists than by any sympathy with them. The North was by no means unresponsive to the introduction of reforms, and in fact, in the few years preceding the Revolution, it had witnessed marvellous strides in modern industry and education, thanks to the exertions of several enlightened and capable Viceroys; but it had no faith in violence and bloodshed, which were characteristic of the Revolutionists.

The cleavage was also widened by the difference in army

organization. When the Manchu Government began its military reform, the Northern province of Chili, under the Viceroyalty of Yüan Shih-k'ai, was the first to drill its troops with European officers, to equip them with European arms, and to supply them with modern mechanical appliances. This army was the pioneer of China's new army, and is still its model, but it did not develop into a national force. It has become the army of the North, and the Southern provinces have armies of their own, equipped by their own arsenals, and supported by their own finance. It is true that all the provincial armies are under the control of the Ministry of War, but the Northern and the Southern armies have never developed that spirit of comradeship towards each other which should prevail in a national force.

During the Revolution, the Southern army threw in its lot with the Revolutionists, but the Northern was loyal to the Imperial Government and fought for the Imperial cause. The rank and file of the Northern army showed little sympathy with revolutionary doctrines. They would have fought their opponents to the bitter end, had the Imperial Government not consented to accept peace.

With the installation of Yüan Shih-k'ai, the creator of the Northern army, as the President of the Republic, the Southern army was to a large extent disbanded in pursuance of his policy of national economy. But at the same time he reinforced the Northern army with new recruits, with improved munitions, and also with increased financial support. To the Southern provinces, the loyalty of which to his Government he had reasons to suspect, he dispatched some picked regiments of the Northern army, which he could trust. The open revolt of the South in 1913 gave

him the opportunity, long desired, of pouring his own troops into the provinces which had hitherto been the stronghold of the Revolutionists; and the suppression of the revolt marked the triumph of his policy that peace should be maintained by the sword, and that the unity of the country should be secured by destroying his opponents. Throughout the whole country, provincial governorships were placed in the hands of his lieutenants with armies under their command; and, through them, he made his orders obeyed and his instructions accepted in the provinces. Attempts at raising a revolt against him were immediately crushed, and tranquillity was thus maintained in the country for three or four brief years, with occasional, but not serious, interruptions.

This policy has survived his death. General Tuan Ch'i-jui, one of his picked lieutenants trained in his school, became Prime Minister in the next Government. By following the example of his master in distributing provincial governorships among his Northern military colleagues, and stationing Northern troops in the South, he endeavoured to avoid internal insurrection and to exact allegiance from all the provinces. But the resentment of the Southern Constitutionalists against his autocratic rule grew and made itself felt. When Parliament was in session they made most strenuous efforts to thwart the policy of the Prime Minister, and to check the authority of provincial governors. Parliamentary tactics were fully employed to control and, finally, to overthrow the Cabinet of General Tuan Ch'i-jui. With his fall, the Northern governors revolted against Parliament.

General Tuan, though supported by nearly all the Northern governors, was opposed by several in the South,



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where he had failed to establish his authority and influence. When the North revolted, the South, including the provinces of Kwantung, Kwangsi, Kweichou, and Yünnan, declared itself loyal to the President and Parliament according to the Constitution.

The policy of the North was outlined by the Prime Minister as follows :

'I hope to unite and pacify the country by the aid of my Northern colleagues. . . . The policy of attacking the South and the South-West is only adopted because the Government, in recent years, has exhausted its wisdom and ability in meeting parliamentary tumults and has been sick of party compromise. . . . Looking around the country, I find that only the real force of the Northern militarists can save and protect the country, and enforce the law. . . . The break-up of the Northern military party will be introductory to the break-up of our country, and the extinction of the force of the North will be an omen of the extinction of China as an independent state.'

On the other hand, the indictment of the South against the North was clearly stated by Dr. Wu Ting-fang, one of its prominent leaders, in the following terms :

'Northern soldiery have been sent to Southern provinces to overawe the people with the mailed fist when it is notorious that the people distrust and fear the strange soldiers. Such stationing of troops reminds one of the procedure that conquerors adopt towards vanquished nations and subject races. Where their military power is insufficient to permit of this, . . . they do not hesitate to commission a man with a bloody record to lead several thousand undisciplined hordes to burn and pillage throughout the provinces, and, as if that were not enough, to let loose the local brigands for this purpose by furnishing them with arms and bribes. They know no law save their own interest. They acknowledge no authority save force. The

highest institutions in the land, Constitution, Parliament, President, are nothing to them. . . .'

The absence of discipline in the Northern army has, it is true, led to the sacking and plundering by its troops of many towns which they have captured from the Southern army, or through which they have passed *en route* to the field. But these outrages are committed, not from the motive of hatred against the South, but merely from the desire of getting booty with which to enrich themselves. This is clearly proved by the fact that, in the course of their looting, they make no discrimination between Northern and Southern property.

The North, commanding a greater part of the wealth and resources of the country, is undoubtedly better equipped as a fighting unit; and, having at its service a better trained army and holding in its hands the machinery of the Central Government, it is certainly in a position to subdue the South. But the North is itself divided. The President (Fêng Kuo-chang) and the Prime Minister (General Tuan Ch'i-jui, now recalled), though both members of the Northern military party, differ from each other in their policy towards the South. The former advocates conciliation, and finds his supporters in the governors of the Central provinces in the Yangtze valley, while the latter is a champion of suppression, and finds his supporters in the North. The difference, though it appears to be one of policy, has a more subtle psychological cause.

The President, a militarist from the North, can hardly be expected to be in sympathy with the South, but in the North his power and authority are overshadowed by those of the Prime Minister, whose leadership is recognized by all Northern governors. In course of time, if the Prime

Minister triumphs in his military scheme, the President will probably be relegated to a feeble and ignominious position, and will most likely lose the post of Chief Magistrate, to which he has only recently been raised, and in which he desires to remain.[1] To strengthen his own position and to check the increasing power and prestige of the Prime Minister, he deems it wise to disapprove of the military policy of the Cabinet. The three Yangtze provinces, Hupeh, Kiangsu, and Kiangsi, in which his supporters hold sway, are strategically important to the military operations of the North ; and by refusing a free passage to the attacking troops they could hamper their advance and subject them to great inconvenience in the matter of supplies and communications. The reverses recently suffered by the Northern troops in the province of Hunan were largely due to interruptions of their transport and interference with their movements in the provinces which did not co-operate with them in their military enterprise.

The President has, however, so far failed to make his followers equal in influence and power to those of the Prime Minister, and there is reason to believe that he has surrendered himself to the policy of his rival. The surrender is perhaps beneficial to the country, as a twofold division is certainly less perilous than a threefold. But it does not follow that the North becomes united.

The Prime Minister relies for support on the Northern governors, but these governors, though they are appointed and can be dismissed by him, have become too powerful for him to control. With the provincial army and finance at their disposal, they can and do make themselves omnipotent

[1] Since October, 1918, M. Hsu Shih-chang has been elected President in place of General Fêng Kuo-chang.

in their own realm and virtually independent of the Central Government. Under a nominally centralized régime, there has never been a clear distinction between national and provincial powers and functions, and the extent to which the province is subservient to the capital depends, on the one hand, on the pleasure of the governor, and on the other, on the personality of the head of the Central Government. General Tuan Ch'i-jui, in order to command the sympathy and support of the Northern governors, has to shape his policy in such a way as to make it acceptable to them. He has to meet all their demands and to tolerate their arrogance. On many occasions they have shown themselves indifferent to national welfare, and even to the welfare of the Northern military party, merely pursuing their personal interests, and quibbling over their petty jealousies and intrigues. If the Prime Minister attempts to take any action unfavourable to their self-aggrandizement, he will probably lose their support. In short, he is openly opposed by the South, tacitly opposed by the President and his followers in the Central provinces, and finally he finds himself at the mercy of the governors in the North. With the goodwill of these Northern governors, he, at the time of my writing (August 1918), holds the reins of the Central Government, but it is doubtful how long their goodwill will last and to what extent he can afford to tolerate their unscrupulousness without endangering his own authority and prestige.

With the North so divided and its counsel so confused, the South, comprising five wealthy provinces fighting for the Constitution, should find it easy to win in the field; but the South suffers from the same trouble as the North. For military operations against the North it depends on

Southern governors who are just as selfish as their Northern colleagues. It also receives, as its allies, brigands or military leaders who have some personal grievance against the North, and who desire to satisfy their greed and ambition by taking advantage of the quarrel between the Constitutionalists and the Militarists. Among the army commanders of the South, many have no sympathy at all with the democratic aspirations of the Constitutionalists, but fight their own battle under the cloak of a good cause. This hopeless state of affairs is acknowledged and deplored by the Southern leader, Dr. Sun Yat Sen, who summarizes the situation by saying that ' the struggle of military leaders for supremacy is equally rampant in the South and in the North ', and that ' he has almost exhausted his voice in calling attention to this incoherent situation with no effect '.

Under such circumstances it is easy to understand that neither the North nor the South can overwhelm the other, and that the opposing armies in the field are each crippled, not so much by the valour or the superiority of the enemy, as by the dissensions and disagreements of their own leaders. A continuance of such conditions must be fatal. If an army commander, governing a province, directing its civil and military administration, and having the power to dispose of its revenue and resources according to his own wishes, is allowed to defy the authority of the Central Government and to silence any dissentient voice by arms, the inevitable result will be a break-up of China into many provincial units, independent of each other and often fighting among themselves. A break-up of this kind has happened at several periods of Chinese history, notably at the end of the T'ang dynasty, when provincial governors,

especially those on the Northern frontier, overruled and finally overthrew the reigning Emperor, and divided the Empire among themselves; each occupied, ruled, and exploited a province or a group of provinces for various lengths of time. The fall of the Holy Roman Empire was also to some extent due to the internal weakness caused by the want of cohesion of its component parts in which Imperial authority had waned. A recent example is afforded by the Ottoman Empire; the Sultan had lost control over some of the Pashaliks whose rebellions contributed largely to its decline.

The situation in China is now alarming and, if not ameliorated, may bring upon her the fate of Turkey and the Holy Roman Empire. But the history of China has repeatedly shown that, though she may be divided for a time, she has the power of re-union. The process of internal disruption has not yet gone too far, and there is still time to avert the disaster.

In the first place, it should be made clear that the struggle between North and South is, strictly speaking, not territorial. Many from the South are in the service of the North, and many from the North are fighting for the Southern cause. In the second place, the bulk of the people, who take no direct part in politics, cherish no animosity among themselves. As has already been mentioned, the same language and the same civilization have united them as one people. They inherit the same historical traditions, believe in the same creeds, and cherish the same aspirations. The barrier created by the difference in dialect has already begun to be pulled down, as a result of the freer intercourse of the people, who can now travel between the North and the South with greater comfort and ease, and

thus have greater facilities for learning each other's dialects. In the National Assembly, in the law courts, and in the schools of higher grades, the Metropolitan mandarin dialect has been adopted as the official means of verbal communication. It is a dialect intelligible to four-fifths of the population, and the remaining fifth can pick it up without much difficulty.

The Cantonese are commercially energetic, and many of them have now established themselves in several of the Northern ports. They are loved and admired ; and in the course of their commercial transactions, no instance has ever arisen of an open hostility between North and South. The South was different from the North in economic aspects, as has already been said, but there has never been any conflict of economic interests. In fact, it is expected that when Canton is brought within three days' distance from Peking by rail, the North and the South will supply each other more extensively with their manufactures and commodities, and develop their resources to their mutual benefit.

The North may be more conservative and the South more radical, but no party in either of them—not even the Militarists and the Constitutionalists themselves—has ever intended to separate one from the other and to divide the country into two Empires or Republics. They wish well for the country as a whole, and on fundamental questions such as reorganization of national finance and industrial development they are at one. They only differ in their methods of attaining the same end. This difference is, in fact, found in almost every country, and the recognition of it is perhaps essential to modern democratic government.

The whole trouble in China between the North and the

South is the work of a few who are not supported at all by popular wishes or voice. The Northern Militarists and the Southern Constitutionalists, who both claim to fight for the liberty of the people, alike ignore the feelings and sufferings of the silent mass. The people themselves, owing to the corruptness of their representatives and the absence of any organization for concerted action, have never found a channel through which to make their views heard and their influence felt, though some of them are much superior, both in intelligence and in public spirit, to many of the Militarists or the Constitutionalists whose arrogance, or dead book-knowledge with no vision of real life, qualifies them to be self-appointed political prophets, stripped, as they are, of all the attributes of a true statesman and patriot.

It is hoped that the Northern party will soon discard its internal dissensions and present a united front to crush the South, as the latter, owing to the lack of experience on the part of its leaders, can hardly be expected to overwhelm the North. The hope seems, however, very remote. Even if we grant that it can be realized, it is doubtful whether a unity achieved by arms can be so maintained for any length of time. As a Chinese writer[1] points out, even Bismarck, with his iron will and with the victorious Prussian army at his disposal after the defeat of France, did not think it wise to coerce the South German States by armed force, but entered into an agreement with them, in which lay the foundation and strength of the German Empire.

What will then be the solution of the entanglements between the North and the South of China ?

[1] In a Chinese monthly magazine published in Shanghai, under the title of *The Pacific Ocean* (March number, 1918).

The problem of 'North and South' is not simple and independent. It is interwoven with the problem of the 'Relation of the Central to the Provincial Governments', which will be dealt with in a separate chapter. Here I only indicate my observations and recommendations in a few lines.

In mediaeval Europe arms were employed by feudal lords in private warfare, but no modern state can afford to let the control and command of its forces be divided among many leaders, who are free to pursue their opposing interests. The unity of the German Empire was only achieved when it had been established that the Emperor should be entrusted with absolute power in time of war, and limited power in time of peace, to command and control the armies of all Germanic States. In the United States and in Switzerland, where States or Cantons enjoy a large measure of internal autonomy, all military authority is in the hands of the Federal Government. If China is to be saved from the danger of internal disruption, which now threatens her, she also must centralize the administration of her army. It should be observed that the Central Government, as matters stand, is the only authority responsible for the organization of the army; that a governor may not recruit a single soldier or purchase a single rifle without the permission of the Ministry of War; and that, in general, he may not act on his own initiative or receive orders from any other political department or institution. The supreme duty of an officer is to maintain the discipline of the troops under his command, to ensure order and peace in the country, and to suppress insurrection on the order of the Central Government, however it may be constituted. The greatest harm he can do to the country

is to turn his arms to the advantage of one political party and to the injury of another.

The first step towards this necessary centralization is to enforce the rule that the officers of the army, whatever may be their rank, should be prohibited from meddling in party politics, and should on no account interfere with civil administration. Hitherto, the military governor has overruled the civil governor in the province and assumed full control of the provincial revenue which is essential to him for the payment of his troops; but the collection and disbursement of it should, according to existing rules, be the business of the civil governor and not that of the military. So long as this usurpation of power is tolerated, no centralization of army control or subjection of military governors to the Central Government can ever be possible. In fact, the rule should be adopted that army divisions, wherever they are stationed, should be financially supported by the Central Government, and that on no account should a province be allowed to maintain its own army with its own revenue. Stripped of his provincial character and his civil and financial power, the military commander in the province will only be a delegate of the Central Government in charge of the army stationed there. He will be more subject to control and less liable to seduction by political adventurers. In fact, political adventurers will be less inclined to spend so much time and effort in bribing governors to take their side, when it is clear that the winning over of an army corps is accompanied by no increase in the financial support, without which no army can be maintained or expected to fight.

It will be said by those who know China that my suggestions are not new, and that they can never be carried out,

as they are not favourable to the personal interests of the governors already in office. If the governors have made up their mind to sacrifice the country for their own advantage, I shall have nothing to say. In that case we can only trust that the whole country will rise against their treachery. But I am hopeful; and I am a follower of Confucius in believing in the original goodness of human nature. The patriotism of the governors both in the North and in the South will not be less strong than that of any other Chinese if they can be made to realize that a surrender of their own interests is the only way to save the country from further bloodshed and from the periodical recurrence of internal revolts. In fact, the proposal to diminish the powers of governors and to isolate them from civil politics has never been seriously carried out, though it has been much discussed. If strenuous efforts take the place of paper proclamations, it can be reasonably anticipated that they will meet with success. I do not waver in my faith that a handful of sincere and disinterested statesmen in Peking and in the provinces can effect the reform, if they seriously try.

The struggle between the Militarists and the Constitutionalists will settle itself when the control of the army is centralized and there are effectual guarantees that troops will not be employed to support any political factions. Both the North and the South will lose their instruments for rebellion, and their political differences will have to be settled by their strength at the poll and by reasonable concessions and compromises. Even if it should happen that the differences produce a deadlock, it would be better that the people should suffer from instability of government than from the petty quarrels of armed politicians or brigands.

# 3

## *Constitution-making*

### § 1. *President*

In reading the history of the formation of the Chinese Republic and of its Provisional Constitution, we are struck by one conspicuous omission. It will be well to recollect that after the first French Revolution of 1789 the proposal was adopted by the National Convention that an Executive Council, instead of a Presidency, should be established, so as to avoid the concentration of powers in the hands of a single individual, which would easily lead to a restoration of despotism in a different form.[1] In the American Convention of 1788, though it was finally decided to invest executive authority in one single person, there were several States that voted for a collective executive.

In China, however, not a single line was written, and not a single voice was heard, advocating the need of a collective executive. It was decided, as a matter of course, that a President should be chosen to exercise full executive authority. No doubt the Chinese Republic was made in haste, and there was no time to deliberate on subtle points in the Constitution ; nor were there many who were intellectually equipped to deliberate. But there are other reasons to explain the omission.

In the first place, politicians responsible for the Revolution

[1] Even as late as 1848 M. Grévy still opposed the establishment of a Presidential post.

and the Provisional Constitution were mostly educated in the United States and in France, and they were naturally impressed by the political institutions of these two countries, each of which has a President. In the second place, there is a historical reason : Republicanism is alien to the Chinese tradition, and a collective executive would probably make the alienation more marked. For centuries the Chinese have been ruled by a single Emperor. To the bulk of them, it is intelligible that they should be ruled by one man, whether he is called Emperor or President. It is, on the other hand, not so easy for them to understand that they should be ruled by a Committee of men.

Now let us see how the President is elected.

I have already shown above that the two Provisional Presidents (Dr. Sun Yat Sen and Yüan Shih-k'ai) were both elected by an Assembly, the members of which were nominated by the governors of different provinces. The method of election has now been altered by the law of October 5, 1913, which provides that the President shall be elected by a National Convention composed of the members of the two Houses of National Parliament.[1]

The first President of the Republic, Yüan Shih-k'ai (who had already served as a provisional President), was elected according to this law, but the election was not effected without complication. Yüan Shih-k'ai, though he was supported by the governors in the North as well as in the

[1] ' For the election, an attendance of at least two-thirds of the electors shall be requisite, and the voting shall be performed by secret ballot. The person obtaining three-fourths of the total votes will be elected, but should no definite result be obtained after the second ballot, the two candidates obtaining most votes in the second ballot shall be voted for, when the candidate receiving the majority of votes shall be elected.'

South, and enjoyed the confidence of scholars throughout the whole country, commanded no majority in Parliament, in which the Democratic or Revolutionary party was dominant. To get himself elected, it was necessary to bribe the members of that party and even threaten them with a military demonstration. To do them justice, it should be pointed out that neither the bribe offered to them nor the threat of military pressure was the sole consideration that made them eventually vote for Yüan Shih-k'ai and against the Presidential candidate of their own party. They feared, and feared rightly, that a defeat suffered by Yüan would lead to a revolt by his followers against parliamentary authority, and that an insurrection at that time would shake the foundation of the newly born Republic and delay its recognition by foreign Powers.

Even in the absence of corruption or military pressure, the election of the President by Parliament is undesirable, because it gives the latter a claim to exercise an influence or control over the former, no matter how differently the law may provide. Moreover, at this experimental stage of parliamentary government in China, when legislators have not yet been trained in their work, precaution should be taken against their undue interference with the chief executive official. Such a precaution was taken by the framers of the American Constitution, when they thought that it was essential to the principle of separation of powers that the Federal Legislature should not be charged with the function of electing the President.

In view of these considerations, it has been suggested that in China the election of a President should be effected by a direct popular vote. This method is practised in Brazil and lately in Portugal, but in China, where territory and

population are nearly four times as vast as those of the United States, such an election would involve an enormous amount of time and labour, if the franchise were not unreasonably and arbitrarily limited. The distance between the different parts of the country is so great and the means of communication so imperfect that it would be practically impossible to hold a direct election and get a majority for any candidate. Moreover, in their present state of political education, many Chinese do not understand the value of the franchise and will always forgo their right to vote. Those who do not forgo it, will be forced by circumstances to surrender their freedom of choice to wire-pullers who understand the art of politics better than the mass. It is true that, in practice, such a surrender takes place in all modern democratic countries at almost any election, but where political parties are well organized, the surrender is conducive to the smooth working of politics. In China, where party machinery has not yet been elaborated and public opinion is almost non-existent, the toleration of wire-pullers would only lead to the realization of individual desires which might or might not be in harmony with the welfare of the State.

The alternative to a direct election would be an indirect one, as provided in the Constitution of the United States. This requires the formation of an electoral college to elect the President. The objection to the application of this method in China is that a separate Presidential election, be it direct or indirect, will cause serious disturbance once in every few years. It is true that parliamentary elections may also cause disturbance, but in China, where the parliamentary franchise is only recently introduced, people do not attach much importance to a seat in Parliament, whereas

they do attach enormous importance to the office of Chief Magistrate; and consequently, the excitement raised in a parliamentary election is not at all likely to be so great as it would probably be in a Presidential election. Moreover, nothing can guarantee that what has happened in America will not happen in China—namely, the virtual substitution of direct for indirect election. It is conceivable that an ambitious man with a large body of influential followers throughout the whole country would so control the votes at the first stage of election as to get them distributed among those who would pledge themselves to vote for him at the second stage. When this happens, all the dangers that might arise from the exploitation of popular votes for individual ends will be present.

The solution of all these difficulties seems to lie in the transfer of the functions of Presidential election to provincial legislatures. These legislatures are far from the seat of the Central Government and are therefore unable to interfere with its administration. Their functions are primarily local and are concerned more closely with the daily life of the people than those of the National Parliament are. In consequence, they are watched more carefully and subject to more frequent examination by those who give them a mandate. As they are all elected, they, if authorized to elect the President, would occupy the same position as the voters at the second stage in an indirect election; but as they are elected for another purpose, the discharge by them of this additional function would not cause the country to suffer from disturbance or dislocation.

The objection to this method of election is that the provincial legislatures, as they now exist, are influenced by provincial governors; and that it would be easy for a

governor to induce the legislature in his province to vote for him or his partisans. This is conceivable, but much depends on the character and the conduct of provincial legislators, which are beyond the control of constitutional law. To reduce the influence as far as law can, it will be well to provide that the President, to be declared elected, should have obtained an absolute majority both of the number of votes cast and of the number of provinces. In case no candidate gets this majority, it will be wise to follow the example of the United States by permitting the National Parliament to elect, by a majority vote, one out of the five who have got the largest number of votes and provinces. This provision is, in fact, necessary, in view of the fact that the provinces are so different in sentiment and outlook, that they may give their votes to numerous candidates.

The Law of October 5, 1913, fixes the term of the President at five years, and permits re-election for a second term only. It can easily be seen that this term is a medium between those of the American and the French Presidents, the former holding office for four and the latter for seven years. The authors of the Law were afraid that a long term and an unrestricted re-eligibility would afford ample time and chance to ambitious soldier-politicians to create a dictatorship and to destroy parliamentary rule. Five years is certainly a short period in a country where history is recorded in millenniums. For its economic development and administrative reform, no man, however active and patriotic, is capable of doing much in that time in the face of strong social and historical antagonism. Frequent change of policy is not desirable.

Neither in the French (of 1873) nor in the American Constitution is there any restriction as to the number of

times a President may be elected, though convention does not encourage re-election for a third time. Lincoln and Grant could have served their country for a third term, had circumstances permitted ; and possibly Mr. Wilson will break the convention by being re-elected for the third time. If in America, where the intelligence of the average citizen is higher than in any other country (according to Tocqueville), there is no restriction on the re-eligibility of the President, it is almost absurd to restrict it to one term in a country which is sadly in need of leaders and whose people look upon the President as the visible sign of national unity and the father of the ' nation-family '.

It would be best to provide in the Constitution that the President is re-eligible without any limit to the number of terms. The term should be not less than seven and not more than ten years, which would be long enough for the President to prove his administrative powers, and yet not so long as to give him time to develop despotic authority.

Among the powers or duties of the President, those relating to foreign affairs are the most important. The Provisional Constitution authorizes the President to receive ambassadors, ministers, and envoys from foreign countries. This is in conformity with the usage of all civilized states and finds a counterpart both in the French and in the American Constitutions.

Diplomacy requires consistency, secrecy, and promptitude, and these are qualities more likely to be possessed by a single person than by an assembly, the primary function of which is to debate, or by a cabinet subject to tumultuous interference and violent attacks from an ill-advised Parliament. The personal character of the head of the State and his personal connexion with foreign chanceries often contribute

to the success of the diplomacy of the country over which he presides. The cordial relations between England and many continental states during the greater part of the nineteenth century were largely due to the personal influence and force of Queen Victoria; and the formation of the Russo-French Alliance was, to a large extent, the result of the personal efforts of President Carnot. In time of crisis, the President of the United States always exercises his emergency powers to deal with foreign states. The President of China should, indeed, be entrusted with sufficient power to direct her foreign affairs; and the need of such power is all the more urgent, if China is to possess a recognized and responsible head in the eyes of foreign nations.

'The President of China may with the consent of Parliament declare war, make peace, and conclude treaties.'

The President of the French Republic is required by the Constitution 'not to declare war without the previous consent of the two Chambers' and 'not to ratify treaties of peace and of commerce, and those involving the finances of the state or relating to the person or property of French citizens in foreign countries, until they have been voted by the two Chambers'. The Constitution of the United States reserves the power to declare war to Congress and authorizes the President to make treaties by and with the advice and consent of the Senate.

According to the spirit of the Chinese Provisional Constitution, the President of the Chinese Republic is more restricted in his treaty-making power than the President of the United States because he requires the consent of the two Houses of Parliament, while the latter only requires that of the Senate. He is even more restricted than the French President, as the latter only requires the consent of

the two chambers for certain specified kinds of treaties, while the former requires it for treaties of all kinds. The over-rigidity of the Constitution is the cause of its break-down ; it is impossible to enforce it in a country where respect for law is not an acquired habit. The excessive restriction on the President only results in his disregard of the law.

One of the two important treaties that have been concluded since the foundation of the Republic is that with Japan relating to her economic concessions in Manchuria and Mongolia and to her interests in Shantung ; and the other is that with Russia binding China to recognize the internal autonomy of Outer Mongolia. Both treaties were concluded without the knowledge of Parliament, which had been dissolved. On its restoration, doubts were expressed as to the validity of these new obligations imposed on the nation, but it is a rule of International Law that treaties must be observed irrespective of changes in the composition or form of the Government. It was, however, suggested that a formal and retrospective sanction should be given to these two treaties by Parliament without discussion, so as to make them valid according to the letter and the spirit of the Constitution, but time was too short to adopt this 'face-saving' suggestion before the second dissolution of Parliament.

The war against Germany and Austria-Hungary was declared by the President when the old Parliament had been dissolved for the second time and the new one had not yet been summoned. Parliament did not recognize its own extinction, and many of its members assembled in Canton and issued a separate manifesto to the Diplomatic Corps in Peking, approving the Government policy but

protesting against its declaration without parliamentary consent. There are, of course, many elements of humour in China's struggle for constitutional freedom.

Serious controversies have arisen as to the Presidential power of dissolving Parliament. The Provisional Constitution is silent on this point ; it is simply enacted that Parliament may itself convoke, conduct, and adjourn its own meetings. President Yüan Shih-k'ai, at first, paralysed the parliamentary machinery by depriving all the members of the Democratic Party (Kuo-ming-tang) of their seats under the pretext that they had associated themselves with a plot against the Government. The deprivation made the two houses unable to form the quorum required by law for their meetings, and this inability was made an excuse for their dissolution.

On the death of President Yüan, the same Parliament was restored, but, a few months afterwards, the governors of nine or ten provinces revolted and demanded its dissolution as a condition of their allegiance to the Central Government. President Li Yüan-hung was faithful to the Constitution and endeavoured to preserve Parliament, but, overwhelmed by the pressure of the military governors, he resorted to the unconstitutional act of dissolving it, under the same excuse as that of his predecessor, that it was no longer possible to get a quorum, in consequence of the flight of many members from Peking in the fear of an invasion by provincial troops. The dilemma in which the President was placed may be shown by his own statement :

'It is said that although our own Constitution contains no express stipulation as to the power of dissolution, the practice of other constitutional states of dissolving their Parliaments may be taken as our precedent. But I adhered

strictly and cautiously to our own Constitution and swore by the spirits of Mountains and Streams to obey it. However, as I dreaded premature dissolution of the Republic by the dissension between governors and parliament, I finally acted against my will and ordered a new election. Impotent as stagnant waters and dead straw, I am unable to achieve what I humbly desired. My lack of virtue and weakness of influence have compelled me to spoil my once bright conduct.'

' The power of dissolving Parliament is one which I think it desirable he (the head of Executive) should possess.' [1] The President of the French Republic ' may with the advice and consent of the Senate dissolve the Chamber of Deputies before the expiration of its legal term '. It is true that the President of the United States has no power to dissolve Congress, but the President and Congress being independent of each other, there is hardly any occasion on which this power could be exercised even if it existed. They both derive their authority from the electorate and, in case of conflict, both appeal to the nation. Neither is responsible to the other, but both are responsible to the same masters.

The President of the Chinese Republic has been made responsible to the two Houses of Parliament through the Cabinet Ministers. A denial to him of the power to dissolve Parliament would make it a necessary condition that he should surrender his independence of thought and bow to the emotions and sentiments of the assembly, which may be against the interest of the nation. To fulfil this condition, the President will necessarily be a man of ' unemphatic character and insensible temperament '.

Among the characteristics of the Chinese Parliament, self-restraint has, so far, not been prominent. Mutual trust

[1] J. S. Mill, *Representative Government*, p. 133 (Everyman Edition).

and respect between Legislature and Executive are not often found in any Parliament in the world, and it would be unreasonable to expect them from the insecurely based Parliament of a newly established Republic. Skill in Parliamentary business has, again, not yet been acquired by the Chinese. Under such circumstances, the impossibility of dissolving a Parliament before its time was expired would promote a deadlock between it and the President, unless, during the interval of its existence, he attempted a *coup d'état*. Even in a country which has become accustomed to representative institutions, dissolution on necessary occasions would prevent the tyranny of Parliament and ensure respect for public opinion. Frequent and unreasonable dissolution by the Executive would, of course, shake the foundation of Parliament and produce autocratic government, but the liability to being dissolved would often act as an effective reminder to legislators not to indulge their own wishes against the interest of the nation.

The administrative powers of the Chinese President in the domain of domestic affairs include the authority to promulgate all laws ; and the power to issue or cause to be issued orders for the execution of laws, to exercise rights delegated to him by law, to grant a general amnesty (with consent of Parliament) and reductions of penalty, and to confer decorations and other insignia of distinction. But by far the most important power is that of appointing and dismissing all military and civil officials, subject, in the case of Cabinet Ministers and Ambassadors, to the concurrence of the two Houses of Parliament. The short existence of Parliament and its incessant interruptions have not yet given time to its members and electioneering officers to develop

a system of spoils, by which, as practised in the United States, appointments are given as rewards to the supporters of the President and Senators at elections. But unlike the President of the United States, the President of China is not confined in his appointments to federal posts. Both the central and the provincial officials, except inferior clerks, are appointed by him ; so are the military and naval officers of practically all ranks.

The possession of this tremendous power is likely to tend to its abuse, but it would certainly be no guarantee against such abuse if the power were transferred from the President to the Parliament or the provincial governors. In fact, it would be easier for office-seekers to approach numerous parliamentarians and governors than to approach one President. Legislators and governors are no more to be trusted than the President to overcome the favouritism which has long characterized Chinese politics.

The Presidential power of appointment is, as already noted, restricted by the provision that Cabinet Ministers and Ambassadors to foreign States must have obtained parliamentary sanction before their appointment. In the last five or six years, several Cabinet posts were kept vacant during the sitting of Parliament, owing to the impossibility of securing a majority vote for any one recommended by the President. On one occasion the proposed minister obtained half the number of votes in the lower House, and the casting vote of the Speaker would have entitled him to the appointment, if he was accepted by the Senate, but as one of the voting papers was slightly damaged by ink, it was considered to be annulled, and the casting vote did not produce the desired effect.

In no other country is there such an anomalous provision.

It is neither logical nor practical to pass a vote of confidence on a prospective minister before he receives office. The record of his previous career may be no clue to his fitness for the post for which he is now proposed. The convention has been in vogue in England and in France that only those will be appointed who are supported by a majority in Parliament, but as party machinery in China is not run on intelligible lines, it would be difficult for the President to know who are so supported, even if he had no preference for his own men. Diplomatic courtesy and nicety require that an informal inquiry should be made of the receiving State as to the acceptability of a proposed ambassador. This acceptability is not always coincident with his acceptance by Parliament. Secret agents are sometimes sent on diplomatic missions, and it would be absurd to let Parliament intervene. The Chinese Government once proposed to send a special envoy to Japan to confer a decoration on the Japanese Emperor. The Government contended that the restriction of the Constitution only covered regular ambassadors but not envoys on special missions. Parliament did not accept this contention, and a long conflict ensued.

It will be interesting to examine at this juncture the relation of the President to the Cabinet, but, to avoid overlapping, I defer it to the next chapter. Here I only make a few remarks and observations on the Presidency of China.

'The President is replaced by the Vice-President in case he is unable to attend to his duty during his term of office.' This clause of the Provisional Constitution has proved a means of saving the country from much trouble and bloodshed, as both the first and the second President have been obliged to quit office before the end of their terms. Successors to them were immediately found in the Vice-

Presidents without any elections, but the Vice-President only acts as President for the remaining period of the term, and a new election is necessary at its expiry. The Vice-President is elected in the same manner and at the same time as the President, and he is usually a governor in some important province.

As Commander-in-Chief of the army and navy, the President has the power to fix the strength of regulars and reserves, and to direct the movements of troops. In virtue of this high office, he has developed the power of establishing in his 'palace' General Headquarters, to which all military governors return when relieved of provincial duties. Under an energetic President, the War Office, the Admiralty, and the General Staff would all be made subordinate to this supreme military institution; and in times of emergency, orders issued from it take precedence over all other departmental instructions. As the head of this institution, the late President, Yüan Shih-k'ai, assumed for a time the title of 'Spiritual and Martial Generalissimo'.

The old belief of China is that a classical scholar is capable of everything, including the direction of operations in the field. But the recent tendency seems to favour the opinion that a commander must receive military training. This accounts for the fact that three successive Presidents have been military men—President Yüan Shih-k'ai, though not an officer, was virtually the creator of China's new army. Moreover, the supreme task of the President is to command obedience from provincial military governors who, it is thought, would despise the Central Government if the Chief Magistrate were not a member of their profession.

China, unlike other oriental States, is nominally a country

of social equality, but the tradition of the official hierarchy has been too strong. It is true that the hierarchy is open to all men of talent irrespective of their family or wealth, but a man, once he becomes an official, is looked upon as above the people. The gorgeous robe (now frock-coat and top hat) and the pomp of official processions give him an air of dignity which is envied by those not holding any office. This tradition has now become much less strong, but it has not yet died. The President is, in fact, looked upon as the first man in the land. Europeans visiting China may see no sign of his social importance, as his head appears neither on coins nor on stamps, but in the East sovereigns have never been so highly exalted, or insulted according to the notion of the Japanese, who dread the idea of beating their Sovereign's head so many times a day.

Unlike the Emperor, the President claims no divine commission, but President Yüan Shih-k'ai performed the sacrificial ceremony at the Temple of Heaven just as an Emperor would. He was less secluded than the Emperor, but in fear of being assassinated he never left his palace gate except on two State occasions during his office. His successors, however, adopt the European fashion and drive about Peking in an open car, but it would probably be regarded as a momentous departure from convention if the President travelled in a train without an armed bodyguard. He is not popularly elected, so he has no need of making himself popular. He receives and entertains senators and members of the lower House just as he would officials of high rank.

His wife, if he had one, would probably be the centre of Peking society, so far as there is a society in the capital of China. She would probably be elected honorary President of many women's clubs and social organizations; and the

late wife of the present President, General Fêng Kuo-chang, took much interest in girls' education. She would have no influence on women's fashions, which are not originated in Peking. Moreover, sages of the past have taught that wives of high officials should practise frugality so as to encourage economy in every household throughout the country.

## § 2. *Cabinet*

The institution of the Cabinet is not an import from Europe. It has a history of its own. Curiously enough, its development bears striking resemblances to that of the British Cabinet. From time immemorial the Emperor of China had been assisted by a Council, which, though it was differently named by various dynasties, corresponded in power and in function to the British Privy Council from which the British Cabinet was evolved. It differed from it, however, by the salient fact that in Great Britain landowners were, for the most part, summoned to the Council, while in China literary distinction was the sole qualification for membership. In the early years of the Manchu dynasty, the convention had been established that only members of the Imperial Academy (Han-lin) were eligible. The three Manchu Emperors who ruled China from 1662 to 1796 were, however, warriors and conquerors. Military expeditions were often dispatched to Kokonor, to Turkistan, and also against the various tribes of Central Asia, and it was soon found that a Council of literary men was not adequate to deal with current problems of strategy and tactics. A separate Military Council was therefore established consisting of Imperial Princes and noblemen, who understood the military art or had been fighting in the field.

This Council, though at first intended to be temporary, survived the purposes for which it was created. It became, till almost the end of the Manchu dynasty, the Supreme Council responsible to the Emperor for the direction of all State affairs, civil as well as military. European authors on China described it as a 'Grand Council', but in Chinese, it retained its original name of 'Council of Military Secrets'. The old Privy Council, which was still in existence side by side with the Supreme Council, had become merely ornamental.

In 1911, the last year of the Manchu rule, the Government abolished the Military Council and substituted for it a Cabinet. It was presided over by one minister and two deputy ministers; all heads of Government departments were made members of it. The title adopted was, however, the same as that of the old Privy Council. Republicans were reluctant to accept an institution which bore a monarchical name. They altered the name to 'Council of State Affairs', and the Prime Minister became 'Chief Manager of State Affairs'. In the rest of this chapter I shall, however, for the sake of simplicity, use the terms 'Cabinet' and 'Prime Minister'.

China, according to the Provisional Constitution, is a parliamentary Republic, the essence of which, it is believed, is a responsible Cabinet. It is provided that 'cabinet ministers shall assist the President in assuming responsibilities' to Parliament, and that 'they shall countersign all bills introduced by the President and laws and orders issued by him'. In the Constitution of France, it is also provided that 'ministers shall be collectively responsible to the chambers for the general policy of the Government'. Both the French and the Chinese rules are based on the

British doctrine that ' the King can do no wrong ' and that his Ministers are responsible for his acts.

This conception of Cabinet Government is entirely new to the Chinese. President Yüan Shih-k'ai, with his power and intellect, was unwilling to play the rôle of a figure-head. During his first two years of office, he made it a rule that no Cabinet decision could be carried out until it had been approved by him, either personally or at a conference. He attended no Cabinet meetings ; his presence was neither required nor prohibited by the Constitution. The usual course adopted was that, after a Cabinet meeting, ministers all went to his ' palace ' to report what had been discussed or decided, and the President had a final voice in accepting or rejecting their counsel. When occasion arose, he also initiated projects and gave instructions to ministers. He even drafted orders and decrees, when he thought that ministers were not sufficiently equipped with classical and literary knowledge to couch documents in impressive and persuasive language.

By administrative regulations he was given no department with an organized staff, but he had at his command the intellect of the country and foreign advisers of high standing. Soldiers, lawyers, financiers, diplomats, interpreters, and draftsmen were all at his service. In short, he had a staff better equipped than the Cabinet or any Government department. Moreover, his impressive personality and successful career had won for him the trust and respect of foreign diplomats and bankers in Peking. Through his lieutenants he could reinforce the national treasury by loans, when the Ministry of Finance failed to find means to cover administrative expenses, and he had a way of solving difficulties beyond the power of Cabinet ministers.

The first Prime Minister of the Republic (Mr. Tang

Shao-yi) attempted to realize the ideal of a responsible Cabinet by making it independent, but he soon found it impossible under so strong a President. His successors were either mediocrities or former subordinates of the President under the Manchu Government. After the dissolution of Parliament, President Yüan Shih-k'ai abolished the Cabinet and substituted for it a secretariat.

With the accession of President Li Yüan-hung, the responsible Cabinet was restored and the pendulum swung to the other extreme. He had neither the will nor the power of his illustrious predecessor, and was no statesman in either the Western or the Eastern acceptation of the term. His simplicity and modesty qualified him to fulfil the condition that he should reign but not govern. The Cabinet under General Tuan Ch'i-jui, in assuming full responsibility to Parliament, began to ignore the existence of the President. 'Before a cabinet meeting, no agenda was presented; and after it, no report was issued.' The Prime Minister might not see the President for many months, but the President was expected to sign decrees, the purport of which he did not understand; and to confirm appointments without being informed of the requirements of the post. When he complained, he was warned that the responsible Cabinet had arrived at a decision which was not open to review. In dispatches to foreign courts or to ambassadors abroad the President was made to speak in the name of the Government, but at home he had no notion of what had happened. In short, the President was relegated to the position of a keeper of the seal of his office, and the weekly 'palatial' conference initiated by his predecessor had now become a lunch party at which ministers enjoyed his hospitality but refrained from political discussion.

A situation even less tolerable seems recently to have arisen. President Fêng Kuo-chang represents a medium between his two predecessors, and his own policy is not always coincident with that of the Cabinet. So long as one dominated the other, the Central Government was undivided, but since dual control has taken shape, dissension has assumed a more serious character. On the question of civil war with the South, the President advocates conciliation and the Cabinet suppression; the former finds his supporters in the Central provinces and the latter in the North. With the rebellious South included, the country is divided into three sections, and the triangular quarrel, if it lasts long, threatens to paralyse the nation.

To avoid this danger as far as is possible by political machinery, it is proposed that the President should assume responsibility to Parliament himself. The proposal creates no new precedent in constitutional history; it revives the rule of the ancient Republics in which the Chief Magistrate was personally answerable to the Assembly. In truth, the President is to be 'the King, the Minister, and the Parliament', if he is to lead it like the Prime Minister of England. The consequence is that the President should only retain office so long as he holds the confidence of Parliament, and that the country should be called upon to elect a new President when he loses that confidence and does not dissolve Parliament, or when a new parliamentary election returns a majority opposed to the President.

The impracticability of this proposal can be easily understood, as it has already been shown that a frequent election of President would throw the country into continual confusion.[1] Moreover, the President, made immovable

[1] *Supra*, § 1. President, p. 50.

during his term except for high treason, is the only stable part of Government when the Cabinet is subject to parliamentary fluctuation. The visible continuity of government will be preserved, so long as the President is not changed, although a change of Cabinet may alter the whole system of administration. With the unimaginative Chinese, it is a solemn tradition that they should be governed by a visible head; it is indifferent whether he possesses real power of government.

The alternative to this proposal will be the rule adopted in the United States, by which the Executive is made independent of the Legislature. The objection to adopting this rule in China is that while in America both are subject to the control of public opinion, in China public opinion, even if it exists, is too ineffective to attract the attention of the Government. If the Executive is not responsible to Parliament, it will be responsible to no one; responsibility to the nation is a meaningless phrase, as by reason of the vast extent of its territory and the present undeveloped state of political education it is incapable of formulating a will to direct Government action.

The essence of a responsible Cabinet is that it is at one and the same time a part of the Executive and a part of the Legislature. 'It is a hyphen',[1] says Bagehot, 'which joins, and a buckle which fastens, the legislative part of the State to the executive part.' It is controlled by Parliament, but it also exercises great influence on it, supplying it with necessary information. It is liable to censure and inquest by the country through its representatives, and yet, it educates it by political reasonings and debate. To

[1] W. Bagehot, *English Constitution*, p. 85 (Nelson's edition). [P. 14, new edition, 1878.]

prevent the government of China from falling into the hands of the few who are not reluctant to sacrifice national interest for the satisfaction of their individual greed, or who are incompetent or slow to perform their duties, a responsible Cabinet is the only channel through which Parliament can make good its claim that things should be done or left undone. On the other hand, to control the turbulence of Parliament and moderate its excesses, a responsible Cabinet is the only instrument which can direct it on what to deliberate and on what to be silent. Moreover, at this transitionary period when China is in urgent need of economic development, it is only a responsible Cabinet which is in a position to secure that necessary laws are passed and money provided to carry out the new administration.

It will be wise, however, that at this early stage of her political development, when a parliamentary frame of mind has not yet been acquired by her citizens, China should not accept a responsible Cabinet in the full sense as understood in England or France. Japan has a responsible Cabinet, but ministers need not be supported by a majority in the Diet, though an adverse vote on a question of confidence would compel them to resign, if the Emperor did not dissolve it. In China, an absolute power of dissolving Parliament should be given to the President on the condition that a new Parliament should be summoned within a limited time. The Legislature should be so restricted in power, in function, and in the number of its members, that it will be enabled to check the Cabinet, but not obstruct its action ; to stimulate it from idleness, but not meddle with intricate problems which are beyond its capacity to grasp ; to afford opportunities to train politicians and

educate the country, but not at the expense of the stability of the government; and to control ministers collectively and individually, but not tie their hands when prompt decisions are necessary. How the chambers should be constructed if these ideals are to be realized will be discussed in the next section.

The principal features of the British system of Cabinet government are lacking in China and perhaps need not be reproduced. The first feature is collective responsibility, by which every minister is made responsible for the policy of the whole Cabinet as well as that of his own department. The Chinese Parliament that was dissolved insisted on the recognition of this principle, but it has not been observed by the Cabinet. It was true that ministers in this case resigned when they disagreed with their colleagues, but it would be difficult for the individualistic Chinese to comprehend that he should lose office owing to some accident in some other department over which he himself exercised no control. Collective responsibility, it is said, is essential to the unity of the Cabinet, but I believe that the unity can be maintained by making the Prime Minister responsible for the acts of his colleagues, and not the several ministers responsible for the acts of each other. This will, I think, be more intelligible to the individualistic Chinese and enhance the sense of responsibility of the Prime Minister.

The practice of collective responsibility is intimately connected with the custom of choosing all ministers from one party. As parties in China have not yet grown to maturity, there has not been a party Cabinet. It was, however, suggested in 1913 that members of the then coalition Cabinet who were not agreed on party questions—

some Radicals, some Conservatives, some soldiers, some Confucian scholars with no party connexion of any kind—should all enlist in the Democratic party, irrespective of their sentiments, temperaments, and political convictions. A party Cabinet would then be created out of the most heterogeneous elements and on the supposition that those members who had been opponents of the party would all discard their earlier antagonism and be converted to its dogmas. The suggestion was perhaps plausible, but its practicability was doubted by the humorous Chinese; it showed, however, their high capacity for inventing make-shifts and compromises.

There was no convention in existence at the time of the Revolution that ministers should be answerable to the majority in Parliament. Hence it was enacted in the Provisional Constitution that all ministers, before they were appointed, should have been approved by Parliament. This is irreconcilable with the British conception that the Prime Minister, as 'the keystone of the Cabinet arch',[1] should be allowed a free choice of his own colleagues. At the present stage of party development in China, it will be fatal to the speedy formation of a Cabinet and to the unanimity of its policy, if the Prime Minister is legally obliged to secure parliamentary consent for every one of his colleagues. Political parties are not created in a day; they require time to develop. Still more time is needed to adapt a country which has hitherto had no notion of political parties to the requirements of party government, granting that such government is desirable for its own sake. Partisans in China may well claim that things will go smoothly, if they only have a free hand, but the difficulty

[1] Viscount Morley, *Walpole*, p. 157.

is that human beings are not all of one shade of opinion and of one state of political education.

To enable ministers to control and to be controlled by Parliament, the convention has been firmly established in European countries which adopt the system of a responsible Cabinet that they should be members of Parliament, or at least should be allowed to attend and take part in the debates. The Provisional Constitution of China allows the ministers to appear in Parliament and speak. The parliamentary frame of mind, as I have already said, has not, as yet, been acquired by the Chinese; and politicians, especially those of the old school, are not willing to indulge in the art of oratory. In the Senate and the House of Representatives in Peking, the ministerial benches are placed on the platform on each side of the Speaker, quite apart from those of ordinary members. When speaking, a minister has to ascend the tribune, and on concluding he immediately leaves the House. There is no feeling of community between ministers and members; and there is no inducement to co-operation between the legislative and the executive parts of the Government. The one views the other with animosity and contempt; and each thinks that the other is transgressing its own power.

Attempts have been made to appoint members to ministerial posts, but it was urged in opposition that a legislator could not be made a Janus with two faces. Not understanding that ministers are the link between Parliament and Cabinet, the country imagines that members are influenced by greed and avarice if they aspire to Cabinet rank. It is thought that, members being already substantially paid, the hope of a ministerial salary in addition would excite their selfish desires. It must be said once again that in a country

which does not yet understand the working of the Cabinet system, it requires time and education to introduce new rules and new conceptions of government. It will be reasonable that ministers, whether they are members or not, should be automatically given seats in Parliament (without an additional salary). It is the practice in France : it should be introduced into China without importing the British rule that a minister, if not already a member, must find a constituency to represent.

To return to the conflict between the President and the Cabinet. Much depends, of course, on their intelligence and prudence. High executive officers are expected to dispossess themselves of jealousy and arrogance ; harmony in government and mutual respect are only obtainable by personal and conscious efforts. Courtesy and politeness have, however, been the characteristics of the Chinese ; and it is to be hoped that they will be brought to bear on their modern politics.

Rules should, perhaps, be laid down to define the functions of the respective offices and minimize the overlapping of their powers. The President, elected with much consideration and care, should not be taken as an idol for fools to worship. The powers granted to him and the duties imposed on him by the Constitution do not permit him to fulfil the ideal of a ' pig kept to fatten '. The French President presides over Cabinet meetings (Conseil des Ministres) and the King of England in Council may also perform State duties of high importance. It is only reasonable that the President of China should participate in conferences relating to important decisions, and that, before the presentation of a case to him, ministers should hold meetings of their own which will probably be similar

to the Conseil de Cabinet in France, as distinct from the Conseil des Ministres.

The Cabinet of China is itself a highly organized department; and the organization reveals the capacity of the Chinese for analytic reasoning and scientific management. The revelation is all the more significant when we remember the fact that the Prime Minister of England, till quite recently, had no secretariat adequate to the amount of his work, and that the Conseil des Ministres is not equipped with a department. The Cabinet in Peking, although it holds meetings in secret, keeps detailed records in its minutes, and it is in charge of business which is common to all departments or which belongs to none. It maintains the unity of administration and is the link between the provincial authorities and the Central Government.

It is divided into four sections. Through the first section, the secretariat, the Prime Minister issues orders and instructions to the whole country within his prescribed sphere of action. It drafts documents, keeps records, compiles reports, and is the custodian of State archives. The next section is the bureau of Laws and Regulations, which occupies the same position as the Government draftsmen in England. The more important section is the bureau of the Civil Service. It combines in itself the functions divided in England between the Treasury Board, the Civil Service Commission, and the Ministry of Pensions. It is also responsible for the preparation of the 'Honours List', according to which decorations and insignia are conferred on 'meritorious' persons, and it authorizes the acceptance of decorations granted to Chinese subjects by foreign States. Finally, a section on 'Printing and Engraving' discharges the same duty as H.M. Stationery Office

in England, with the additional function of designing and making seals and badges of every description.

The Cabinet of China, as has been shown, has had a long history. The division of the Executive into different departments was also long in development. In the ritual of the Chou dynasty which ruled China from 1122 B.C. to 225 B.C., we find that six Government departments were then in existence. To inquire into their internal organization and to examine their division of powers in detail will be a study of immense historical interest, but it will be out of place to mention here more than the broad division into departments of the Imperial Household; of the Interior and Education; of Rites; of Public Works; and of Punishments. After numerous alterations in successive dynasties, the Manchu Government had departments of the Civil Service; of Rites; of Works; of War; of Finance; and of Justice. New departments were created towards the end of its reign.

The Republic carries on its administration through ten departments. Modern activities have grown up, and more governmental interference is needed to direct social activities towards certain channels. The mutual diplomatic representation between China and other States has necessitated the creation of a department of Foreign Affairs, the nucleus of which has existed ever since the establishment of the Tsungli Yamen in 1863. It is the department through which China communicates with the Foreign Offices of other Powers, and its functions do not differ much from those of the latter. But owing to the exercise of territorial rights by other States in China, it often deals with questions which do not concern the Foreign Office of any other country. Treaty ports are under the jurisdiction of foreign

consuls, and litigation involving both aliens and Chinese often requires careful and dignified handling by this department. Mixed Courts, in which Chinese judges sit with foreign colleagues, are partially controlled by the Ministry; and cases of extradition from Chinese territory to foreign settlements and vice versa often present thorny problems for solution. For instance, the registration of alien enemies in time of war is in most other countries done by the police, but in China, as these aliens are mostly resident in foreign settlements, it comes under the Foreign Ministry as the proper authority to approach foreign consuls, with whom it must co-operate to effect the registration. The Ministry appoints delegates to represent it in treaty ports to deal with foreign affairs.

China is no leading figure in the family of nations, but the conduct of her foreign affairs is sometimes extremely painful and delicate. The demand by foreign Powers for economic and sometimes territorial concessions, and the occasional delinquency in the observance of treaties in remote parts of the country, are unpleasant events for her Government. She has no formal alliance with any country, and, not being a Power of first rank, she exercises little influence on the course of those international events which make modern political life so exciting and foreign affairs so difficult to understand. But a weak Power is always a pawn which the strong hands play, and, though impotent itself, often disturbs the equilibrium between the Great Powers. On her own part, China only desires peace and non-interference on the part of other States so that she can have time to organize her resources and to adapt herself to the changes of environment caused by her coming into contact with Western States.

Next in order comes the Ministry of the Interior. Its functions are manifold and cover vast ground. China is no federal State, and her administration is centralized. This Ministry is charged with all local administration, including elections, publication, copyright, sanitation, police, public works, poor relief, charity organization, disposition of public land, public worship, and control over morality and conscience.

Europeans will probably be puzzled by this long list; any one of the items enumerated might require a separate department to carry out its administration over so vast an area as three-fourths of the Asiatic continent. But China, up to the present, has not been a modern country, and, according to European notions, she has not attained even a rudimentary standard in sanitation and public works. Throughout the whole country there are not more than a few thousand yards of water pipes and not more than half a score of workhouses provided at the expense of the Government.

The Chinese are reputed to be docile and honest. They have developed self-control and mutual help to a very high degree and they require very little government. The shrewd observation of the late Sir Robert Hart that China is the only country in the world where a single magistrate governs thousands of square miles and millions of population is truly reflective of her social organization. Richthofen is also of opinion that there is no other country more immune from official interference or interruption.

Modern activities have, however, gradually multiplied and the increase of travel has already put an end to the calm and tranquillity of the old order. Factory life has been introduced and organization on a big scale has become

necessary in order to meet the requirements of modern industry and trade. The Ministry of the Interior, with a staff of a little over a hundred, should find it impossible to cope with the multifarious duties imposed on it, but at the moment the introduction and execution of social reforms has been so retarded by internal strife and financial chaos that it finds its staff sufficient to deal with its various duties. Moreover, the centralization of administration, although much advertised in Government publications, has never been and probably never can be enforced. The Ministry is in charge of the Police Force of the whole country, but in practice its administration largely depends on the pleasure of provincial authorities who, in turn, delegate it to magistrates. The inhabitants in rural districts organize their own police in their own fashion without being subject to the supervision of the Central Government. The vastness of the country and the imperfection of the means of communication have made the Ministry unable to enforce its will; and the only police force under its direct control, and for the efficiency of which it is responsible, is the Police Force in the metropolitan area of Peking.

This Ministry is in charge of Public Worship. It is a highly controversial question whether China has a State religion, but she is certainly more tolerant of religious opinions than any other nation. Buddhism, Mohammedanism, Judaism, and Christianity all have their followers in China; but throughout her long range of history there has not been a single instance of religious persecution.[1]

[1] The massacre of Christian missionaries in China in 1900 cannot be said to have been a religious persecution. They were killed not because they were Christians, but because they were foreigners, and the native converts were killed, not because of their new faith, but because of their association with foreigners.

The function of the Ministry is, however, administrative and not religious. It deals with questions that may possibly arise in connexion with different religions, and it keeps in order and repair temples dedicated to Heaven, to Gods, to Confucius, and to other notable historical persons. It has a more interesting function, that of granting Government appreciation and encouragement to those distinguished in chivalry, in chastity, or in kindred virtues, and to those who have enjoyed the long age of over one hundred years. The authorization of the erection of memorial tablets and arches to young widows who have not been married for the second time is a function peculiar to Chinese moral conceptions.

The Ministry of Finance is in charge of the financial machinery of the whole country, which includes taxation, public debt, Government monopoly, Government banks, and currency control. The principal sources of revenue of the Chinese Government are customs duties, excise, salt duty, and land tax. A distinction has been drawn between the National and Provincial revenue, but when money is needed for provincial expense, governors always retain the instalments due to the Central Government for their own requirements ; they sometimes come to Peking for financial reinforcements. Attempts have been made to appoint officials direct from Peking to collect the national revenue, but without success. China is supposed to be a centralized country ; all provincial officials are primarily agents of the Central Government. They should collect money on its behalf without the need of a separate set of officials like the Marshals of the United States Federal Courts. But the weakness of the Central control over the provinces has prevented this ideal from being realized and has resulted in

the instability of Central finance. I shall have more to say on this point when I deal with the relations between the Central and the Provincial Governments.

This Ministry is responsible for the preparation of the annual budget; all Government departments send in their estimates some time before the beginning of the financial year; and the Budget must be discussed at a Cabinet meeting before being presented to Parliament, provided the latter is in session. During the last three or four years, when Parliament had been dissolved, the Budget was authorized by the Cabinet and the President without any interference by Parliament. Accounts are audited by a separate department directly under the President and independent of the Cabinet or Parliament.

Currency reform and the adoption of gold or a gold-exchange standard have been under discussion for the last twenty years, but nothing definite has so far been done. A beginning has been made to secure a uniform silver dollar standard; but different provinces are still permitted to coin their own money, which suffers discount in any province other than that in which it is coined. Moreover, the silver dollar is not the only money in circulation. Silver bars in various shapes are largely employed in business transactions, and the difference in the system of weight in different localities again introduces confusion into the value of the bar.

The Bank of China is the only Government bank under the control of the Ministry of Finance, the other Government bank being under the Ministry of Communications. It is authorized by the Ministry to issue notes, but other banks, Chinese and foreign alike, may also issue notes to any amount they think fit without any Government authoriza-

tion, though they are not accepted as legal tender for payments to the Government. Europeans may wonder how business can be carried on with such a confused system of currency and banking, but the spirit of tolerance and carefulness has so deeply permeated the mercantile and agricultural classes of China (not the political class) that they can make their life cheerful and happy in spite of all barriers and hindrance.

The functions and duties of the Ministries of the Army and the Navy are obvious from their titles. The best part of the Chinese Navy was destroyed in the Chino-Japanese War, and financial difficulties have not permitted it to be replaced. The biggest man-of-war is an unarmed cruiser, twenty years old, with a tonnage of 5,000. Many gun-boats are used for coastal and river defence and for the suppression of pirates. The Ministry of the Navy can perhaps hardly justify its own existence, but it is useful as a department in charge of the training of naval officers and architects for the future extension of China's force at sea. It controls a few naval schools, and it is in charge of a few docks and shipyards, where old ships are repaired and new gun-boats of inconsiderable size can be constructed by the Chinese without foreign expert assistance. It should be responsible for buoy-lights and coastal life-saving appliances, but the care of these is undertaken by the Customs Service. It controls several wireless stations.

The Ministry of War has perhaps more vexatious duties to discharge. The old ' Bannermen ' Army of the Manchus has been entirely replaced by a new army trained and equipped more or less on modern lines. The standing army of the Republic is believed to be 800,000 strong, but its exact number is not definitely known. The Ministry is

supposed to be in supreme control of the organization and the movement of troops, but as a military governor can order the troops stationed in his province in any way he likes, it is extremely doubtful whether the Ministry has full authority over the Army. The bravery of the Chinese and their fearlessness of death qualify them to make the best fighting material, but the absence of discipline and leadership causes them to compare very unfavourably with a modern European army.

Conscription has not been introduced ; and as China in the last twenty years has not been in a position to organize an army to meet a foreign foe, the need for it has not arisen. But unless patriotism can be cultivated and discipline maintained, even a big army will not afford adequate defence to the country, but will be used by its leaders to foment revolution and destroy its unity. The equipment of the army, though much improved in recent years, is still almost obsolete and quite inadequate for modern warfare. The progress of science and its application to the manufacture of munitions have altered the designs and construction of arms of every description, and new inventions add new weapons to the old. China has certainly not kept pace with this rapid progress. It is true that she has aeroplanes in her army, but the number is very insufficient. Motor transport, which is most vital to modern fighting, does not exist in the Chinese Army. Its heavy artillery is perhaps not strong enough to hold even one mile of front in the battlefields of Flanders and France. To create an army for China adequate to the demands of her national defence is one of the dreams which the patriotic Chinese hope to realize in the near future.

The Ministry of Justice is responsible for the establish-

ment, the maintenance, and the supervision of all judicial courts within the Republic. It is responsible for the appointment of judges, the examination of advocates (there is no distinction between barristers and solicitors in China), and the training of legal students. It is the highest administrative authority in all civil or criminal cases and is in charge of prisons. The separation of judicial and executive office is a new departure in China's legal history, the judicial functions having been formerly entrusted to district magistrates and provincial governors. The judicial system has been reorganized on European models, but, in many parts of the country, modern courts have not yet been established, and district executive officials are still temporarily charged with judicial functions.

The Chinese are tolerant and always endeavour to avoid litigation: Confucius taught that in a perfect society there are no law-suits; and the Chinese aspire to live up to this high ideal. Moreover, the corruption practised by the district magistrates under the old régime has horrified the peaceful and respectable Chinese, and the dread of law courts has deterred them from appealing to public authorities on minor grievances. The modern courts, though improved in buildings and accommodation, have not yet been sufficiently provided with experienced judges. These defects will, it is hoped, be made good in course of time.

Education is in the care of a separate central department. The range of its functions covers University, secondary, elementary, and popular education. By popular education is meant education through libraries, museums, botanic and zoological gardens, exhibitions, musical and dramatic performance, and public lectures. Popular education thus defined is indeed highly recommended by European educa-

tionists and probably gets the maximum amount of educational efficiency with the minimum amount of cost, but, so far as China is concerned, little or nothing has been done in this direction, though elaborate schemes have been proposed.

There are a few Universities in China, but their academic standard leaves much to be desired. It has been difficult to get qualified professors or even students. But numerous colleges of specialized character have been opened in which training for certain trades or occupations is given. This is an imitation of the German 'technische Hochschule' and has been proved very useful both in Japan and in China. On the same level as these specialized colleges are the Normal Colleges where teachers are trained.

Below these colleges are the secondary or middle schools, which correspond perhaps to the continuation schools in England, but their curriculum is much higher. Graduates of this grade of schools enter direct to Universities or technical colleges. In elementary schools writing, reading, and arithmetic are taught together with elementary history and geography. Compulsory education has so far not been enforced, but schools are mostly maintained at Government expense and the charge is so small that they are practically free.

The Ministry of Agriculture and Commerce covers also a vast field of action. It is supposed to deal with questions relating to agriculture, sugar, tea, and cotton plantation; irrigation, cultivation of waste land, cattle-breeding, forestry, fisheries, mining; registration of companies and of trade marks, stock exchange, Government subsidies, insurance and labour conditions. Like the Ministry of the Interior, it is entrusted with numerous functions on paper which would

require several departments, were China a modern industrial state. But for the present, the Ministry is confined to making reports and mining surveys. The unsettled condition of the country and the lack of funds have crippled its activities. A few experimental cotton stations have been opened to produce cotton of improved quality ; and the improvement of the quality of wool has also engaged the attention of the Government. Over the private mining industries the Government exercises little control except in the matter of registration, and it has so far opened no mine on its own account.

China is a country of extensive and intensive farming. A big population requires a large quantity of food. In fertile regions two or three staple crops are produced on the same allotment every year, and practically every inch of soil is under cultivation. But for this advanced state of farming the Government can claim no credit. As M. Simon[1] observed, ' Every farmer in China is himself a Minister of Agriculture '.

Factory life is only beginning, and the labour movement has, as yet, no organization. The Chinese are so human and tolerant that they probably require no organization to protect themselves against employers, even when capitalism has replaced the prevailing system of private ownership and partnership. The Ministry is, in fact, charged with many functions which do not exist. There is no Stock Exchange in China, except among foreign commercial communities in Tientsin and Shanghai, and these are not subject to the control of the Ministry.

The Ministry of Communication is in charge of railways, posts, telegraph and telephone, and merchant vessels. China

[1] *La Cité chinoise.*

has about 8,000 miles of railway under Government control. The Ministry regulates its freights, enforces rules of safety and sanitation, authorizes through communication between several lines, and supervises their traffic management. It appoints and dismisses all railway officials, including foreign engineers and accountants. It audits railway accounts and controls railway finance. Its more important function is, however, that of planning further railway extensions to be carried out either by the Government or by private enterprise or by foreign capitalists. Railway nationalization has been largely effected, and lines privately owned are also controlled by the Government. Several important lines are under construction and more have been projected, but the construction has been much delayed owing to mismanagement or to the difficulty of getting materials from abroad in time of war.

The postal service is one of the few efficient departments of modern China and has been extended to practically every corner of the country. It was initiated by the Customs Houses, but has now been taken over by this Ministry. The telephone system has not yet been widely extended, but towns and villages of considerable size are now all connected by telegraph wire. Wireless stations have been set up, but as they are reserved for Government correspondence they are not available for the transmission of commercial intelligence. No ocean-going vessel is under the Chinese flag, but a Chinese company owns many vessels of four or five thousand tons for coastal and river traffic.

The functions of the Ministry will, no doubt, grow when the whole country is netted with more rails and wire. The spirit of enterprise will not, let us hope, fail to promote shipping industry in foreign seas when China's trade is more

extended and the Chinese have acquired more knowledge of the organization of transport. The Ministry, even at the present, is more active and more attractive than some other Ministries, because it controls a large amount of railway purchase and revenue; and its control of the Bank of Communications enables it to come into closer touch with the financial market. Its power of making appointments to desirable and remunerative posts attracts office-seekers and experts to it more than to any other Government office.

So far I have mentioned the departments which are under members of the Cabinet. There are other departments (under the President) whose chiefs are not in the Cabinet. Among them is the Audit Department, which I have mentioned in connexion with the Ministry of Finance. The General Staff is in charge of the National Defence. It directs the education of staff officers and controls staff colleges. Its functions include land- and sea-survey, military communications, and the appointment and instruction of naval and military attachés to the legations abroad.

The Department for Mongolia and Tibet which in other countries would probably be named The Colonial Office, is also under the direct control of the President, who deals with questions in connexion with these two regions. The cultivation and economic development of Mongolia and Tibet are subjects of burning importance, but the department is for the present fully occupied with the pacification of native chieftains of various tribes. Its head is always a Mongol, and he is often confronted with diplomatic entanglements which arise from the British and the Russian interests in these two Chinese dependencies.

The Administrative Court, the Censorship, the Historiographical Department, and the Department of Salt Administration are all under the direct supervision of the President, the Cabinet having no control over them except as regards their expenditure, which falls on the national exchequer.

I have now enumerated all the Government departments and have stated very briefly their importance, their functions, and the general conditions of the various matters which they control. The distribution of functions among them is, of course, subject to alteration as times change; new functions may necessitate the creation of new departments. Before long, the Air Force will probably require a separate department, as has been the case in several European countries. But for the present I recommend neither the creation of new departments nor the abolition of the old. The scarcity of skilled engineers, the incompetence of civil servants, the absence of capital and organizing power, and the lack of unity in the country have all contributed to the delay and interruption of economic developments. Unless these defects can be made good, a new department will bring no salvation, but afford a place where a few hundred candidates for office can earn good salaries, while their intellect and spirit of enterprise simply deteriorate from lack of occupation. China is already provided with more Government departments than her administration needs as yet. The creation of a new department may either precede or follow the rise of new administration, but the present is certainly not the time when a new department in China can initiate new Government enterprise or subsidize and encourage private concerns. The departments that already exist may be useful as means of developing

more competent and more active departments in due course. Their arrangements should be considered provisional rather than permanent. Several have special officials to translate and compile books and reports which will, it is hoped, enlighten the future generation and lay the foundation of an improved administration.[1]

### § 3. *Legislature*

Of the new institutions that have been introduced into China since the establishment of the Republic, none is so foreign to her traditional conceptions of government as an elective Parliament. Throughout the long range of her history, there is nothing parallel to an assembly, the members of which are authorized by a popular mandate to represent the popular voice in the sphere of government. It is because of its novelty that Parliament has not been allowed to proceed with its work; it has been more than once summoned and dissolved in the short space of three years. At the time of writing (December 1918) the Parliament in Peking is elected by a law promulgated in 1918, and the old Parliament that refuses to obey the Presidential order of dissolution, but convokes itself and sits in extraordinary session in Canton, is elected by the law of 1912, which has been abrogated, revived, and again abrogated by the Peking Government. The Constitutionalists in Canton refuse to recognize the law of 1918, because (though issued by the President) it has not been passed by an elective assembly, which, according to them, alone has the right to make laws.

This confusion need not give rise to any alarm for the safety of the State; it is but the consequence of the violence with which the Constitution has been introduced. In

[1] For Customs Service see Chapter 7.

revolutionary France the confusion was even greater, but it resulted in valuable additions to the stock of constitutional knowledge which the world possessed, and to-day many countries are in a position to profit by her experiments in dealing with the difficulties of parliamentary government and with the necessity of adapting it to the prevailing social and political conditions. China may also contribute something to the science of politics by her numerous experiments, and it is with the view of making that contribution that I propose to examine and criticize both the law of 1912 and that of 1918 with equal care and at equal length. Should it be asked which of the two now possesses operative value, the reply is that as the Government in Peking is *de facto* and recognized by foreign Powers, the law that constitutes its Parliament should be considered the law of the land, but as the Government is approaching the Southern Constitutionalists with proposals of compromise, the law of 1918 may be abolished in favour of that of 1912 before these pages go to press. These two laws both provide that Parliament shall be composed of a Senate and a House of Representatives. Let us begin with the constitution of the Senate.

According to the law of 1912, the Senate consists of the following members :

(*a*) Ten members elected by the Provincial Assembly in each province (210 members from 21 provinces altogether).

(*b*) Twenty-seven members elected by the electoral college of Mongolia.

(*c*) Ten members elected by the electoral college of Tibet.

(*d*) Three members elected by the electoral college of Chinese Turkistan.

(*e*) Eight members elected by the Central Educational Society.

(*f*) Six members elected by the Chinese residents overseas.

It will be seen that the preponderant majority of the Senators are elected by provincial assemblies; that the special electoral colleges are only constituted where no provincial assembly is available (as in Mongolia and Tibet); and that only insignificant representation is given to the Central Educational Society and to the Chinese abroad whose interests are not otherwise represented. The fundamental idea of the Chinese Senate, like that of the American, is to give every province equal representation, irrespective of its population. Although the Constitution of China is not federal, the construction of her Senate is based upon a federal principle.

It is argued that as China will have to adopt some sort of federation in view of the ineffectiveness of centralization and the rise of modern activities which require more provincial initiation, the Senate in the future should be elected by provincial assemblies, as provided by this law. But, as will be explained elsewhere in this volume, the federation of China, if ever adopted, will only grant limited and specified powers to provinces and will not justify the creation of a Senate to represent provincial interests. Moreover, if it is believed that the Central Government should always be informed of the situation in every province and provided with an assembly ready at hand to consult on questions affecting it, it may be arranged that the seats in the Senate, no matter how it is constituted, shall be so distributed as to give all provinces an equal or approximately equal representation.

Before expounding my views on the best constitution of

the Senate, let us examine the law of 1918. This law relieves the provincial assemblies of the responsibility of choosing senators and transfers it to the local and the central colleges specially constituted for the purpose. Members of a local college must be over thirty years of age and possess one of the following qualifications :

(1) Graduation at a higher special school.
(2) Possession of an educational qualification equivalent to that of clause (1) and employment in the public service for three years or more.
(3) Employment as master or teacher in schools higher in grade than the middle for three years or more.
(4) The publication or invention of something which has been examined and approved by the Government departments concerned.
(5) Employment as a Government official higher than the third grade for three years or more.
(6) Employment as an official of the second grade for one year or more.
(7) Receipt of ' Orders ' and ' Decorations '.
(8) Payment of an annual direct tax of more than $300.[1]
(9) Possession of immovable property more than $50,000 in value.

Any of the following are disqualified from becoming members of a local electoral college :

(1) All those whose civil rights have been taken away and not yet restored.
(2) Bankrupts whose bankruptcy has not yet been rescinded.
(3) All those afflicted with mental disease.

[1] One Chinese dollar is equal to about two shillings at the pre-war rate of exchange.

(4) Illiterates.
(5) All those on the active list of army or navy.
(6) Judicial, administrative, or police officials on the active list.
(7) Monks, priests, or other religious teachers.
(8) Students at schools.

Teachers of elementary schools may vote, but may not be elected as senators.

Every thirty of those qualified to vote shall elect one voter; and the voters so elected shall constitute a college to choose senators, of whom every province elects five, every special administrative area one, Mongolia fifteen, Tibet six, and Chinese Turkistan two. Candidates for the senatorial election by local colleges must be over thirty-five years of age and not subject to any of the disqualifications enumerated above.

So much for the local college; the central college shall be composed of the following groups:

(1) Graduates of a Chinese or foreign university who have been employed in public service for more than three years; or those who have been principals or teachers in a Government university for more than three years; or those who have contributed to learning by publication or by some invention which has been certificated by a Government department concerned.
(2) Retired presidents, vice-presidents, cabinet ministers those who have been Government officials of the first grade for more than one year, or those who have received the Order of Merit of the third class.
(3) Those who pay an annual direct tax of more than one thousand dollars, or possess property of more than

one million dollars in agricultural, industrial, or commercial concerns, that have been examined and certified by the Government departments concerned.

(4) Subjects abroad possessing property of more than one million dollars which has been examined by Consular officials.

(5) Manchurian or Mongolian Princes and Dukes possessing administrative experience.

Voters of each group elect Senators ; the first group elects ten Senators, the second eight, the third five, the fourth and the fifth three each. The disqualifications mentioned above are equally applicable in the case of the Central College.

Under this scheme, not only the number of Senators elected (168) will be much reduced compared with that elected under the old law (264), but the qualifications required of voters are so high that, for many years to come, there will be in the whole of China not more than a few thousand voters to constitute the local and the central colleges. The object is to make the Senate represent those and those only who have received a modern education of a high standard (which is difficult for the Chinese to get), or who have accumulated wealth or served the Government in responsible positions. The federal character of the Senate is eliminated and it is now made very bureaucratic and aristocratic.

It is true that the Senate should not be elected on a popular franchise, as it is always intended to be a check and balance to the House of Representatives, and that, at this infant stage of parliamentary government in China, there is special need of a Senate that represents only intellectual and experienced persons. But the qualifications enumerated above are decidedly too restrictive. Officials of low rank or graduates of low grades may be equally careful

and intellectual in exercising their right to vote, and may sometimes even possess political intelligence and powers of discretion which are denied to persons more imbued with book knowledge or more immersed in officialism. Moreover, political wisdom and sagacity are not always acquired in schools or in Government departments. Shrewdness in observation and promptitude in decision, which are useful qualities for politicians, may be acquired in commercial life or by private study without going through a school.

In fact, though I believe in giving plural representation to those who have distinguished themselves in learning and in administration, and recognize the advisability of securing their services in representative institutions, I do not think that an assembly consisting of them exclusively will be ideal as a legislative chamber. People drawn from the same strata of society and brought up in the same atmosphere are often narrow in their outlook and unable to understand the needs of those who are differently situated and brought up under different circumstances. A heterogeneous assembly is, in fact, more likely to promote the welfare of the different classes of the community, provided the heterogeneous elements co-operate.

Let us consider some other methods by which a Senate may be constituted. If the precedents in other countries are followed, there are three ways opened to China. Firstly, she may entrust the election of Senators to the members of the lower House. This system is recommended by Lord Bryce[1] for the reform of the British House of Lords and will be suitable for China because the House of Representatives consists, or should consist, of persons of intellect and experience, which are believed by the Chinese to be the

[1] Cd. 9038. Conference on the Reform of the Second Chamber.

necessary qualifications for voters at senatorial elections. But objection is made on the ground that it would increase the influence and functions of the lower House—an increase that is undesirable at this experimental stage of parliamentary government.

Secondly, the Senate may be elected by colleges consisting of members of the lower House, of provincial assemblies, and of district councils. Such is the system in France. There are practical difficulties in introducing it into China, because the district councils in many parts of the country are not yet organized. Moreover, the participation by the lower House and the provincial assemblies in the election enables them to exercise control over the Executive in Peking through their senators, and this control may compromise the independence and stability of the Executive and the Central Government.

The third alternative is nomination, as practised in Italy. This is in fact the best system for China, taking all things into account. In the first place, it will avoid all the trouble of election as required by the law of 1918, and yet produce practically the same results. The reason is that, under the provisions of that law, the electorate will be so small that the nominating authorities will be in a position to choose exactly those who are likely to represent its interests—men of intellect, wealth, and administrative experience. Nomination will bring persons possessing these qualifications into office, but need not be restricted to these persons, as is the case under the present law. It will be influenced by considerations of the achievements of the nominee, and yet it will not necessarily produce a Senate wholly consisting of privileged classes.

In the second place, a nominated Senate will be more

amenable to executive control and, in times of conflict between the Cabinet and the lower House, will be very likely to support the Government. It will then strengthen its position and exercise a moderating influence over the passions and tumults of the Chamber popularly elected. At the present time, when Parliament in China is not always representative, and when the Government should be made as stable as possible, it is indeed desirable that the Cabinet should be provided with an instrument by which it can control the representatives. So much for the Senate.

Let us now see how the lower House is constituted. The law of 1912 provided that the members of the lower House should be elected by the people by an indirect election at the ratio of one representative for 800,000 inhabitants. This ratio has been changed by the law of 1918 to 'one for 1,000,000'. By the law of 1912 any male citizen of China over twenty-one years of age, or over twenty-five under the law of 1918, is eligible as a voter at the first stage provided that he has been resident in the electoral area for more than two years at the time of the compilation of the register of voters, and possesses any one of the following qualifications:

(1) Payment of an annual direct tax of $2 or upwards under the law of 1912; or of $4 or upwards under the law of 1918.
(2) Possession of immovable property of $500 or upwards under the law of 1912; or of $1,000 or upwards under the law of 1918.
(3) Graduation at an elementary school.
(4) Possession of an education equivalent to that of Clause 3.

The disqualifications from voting or being elected that

have been enumerated above in connexion with the election of senators are equally valid in the case of the election of the members of the lower House. Under the law of 1912, opium-smoking is a disqualification for both voting and being elected, but the law of 1918 omits it.[1]

All Chinese male citizens over twenty-five years of age under the law of 1912, or over thirty under the law of 1918, are eligible as members of the lower House, provided they are not subject to any of the disqualifications enumerated above.

The elections both in the first and in the second stage are effected neither by the single-member-constituency system nor by that of proportional representation. The total number of electors for the first stage election in a district should be divided by the number of members to be elected by it, which is fifty times the number of the representatives to be returned by the second stage electorate,[2] of which this first stage electoral district forms a part. The quotient obtained by the division will give the number of electors to each member in the first stage election, and the number of electors in each first stage electoral district divided by this figure gives the number of members to be elected by that district.

For the second stage election, it is provided that the election officer should divide the total number of second-stage electors in a province by the total number of representatives allotted by law to that province. This will give the proportion of second-stage electors to each representative.

[1] Perhaps because in 1918 the habit of opium-smoking has almost disappeared.

[2] The number of representatives to be returned by a second stage electoral district is fixed by the Election Officer.

The total number of electors in each second-stage electoral district should then be divided by this (proportion) number and the quotient will give the number of representatives to be returned by that second-stage electoral district.

Candidates at the first-stage election are elected if they have got one-third of the total number of votes obtained by dividing the total number of voters in the district by the number of candidates to be returned; and candidates at the second-stage election are returned if they have got a number of votes more than one-half of the number produced by dividing the total number of voters in that district by the number of candidates to be returned by it.

It should be noted that of the 800,000 or 1,000,000 inhabitants represented by one member in the lower House less than 10 per cent. have votes; and that the voters themselves practically exercise no influence in the choice of representatives, as the latter are chosen by the members of an electoral college in the second stage who can elect anybody they like without consulting the wishes of the voters in the first stage. Election by two stages is, of course, no invention of the Chinese. It is expounded and criticized by J. S. Mill in his work on *Representative Government*, and it is practised in the Presidential Election of the United States. But the difference between the American Presidential and the Chinese parliamentary election is that, in the case of the former, voters in the second stage are pledged to vote for a candidate, while, in the case of the latter, voters have their own choice of candidates. No doubt, in China, as in America, political parties exercise influence on their choice, but the difference again is that in America voters are pledged to vote for a Republican or Democratic candidate, before they are nominated; while in China party

influence only comes in when the list of voters in the second stage has already been announced.

A constituency of 800,000 or 1,000,000 inhabitants is in fact too vast for one representative, and the election by two stages, as Mill contends, deprives the voters of one of the principal uses of giving them a vote, namely, 'the political function to which they are called fails of developing public spirit and political intelligence, of making public affairs an object of interest to their feelings and of exercise to their faculties'.[1] The undesirability of indirect election is also pointed out by Mr. Montague in his report on Indian Reforms of 1918.[2]

The essence of representative government is that it is subject to control by public opinion. For the growth of public opinion several conditions are requisite. Homogeneity of population is one of them, according to Mr. A. L. Lowell.[3] By homogeneity one does not mean that all think alike, act alike, or believe in the same thing, but that they do so with regard to fundamental measures affecting the welfare or interest of the community. In this respect China finds no difficulty in her path. Within her boundary, though there are populations of different races, all are moulded in character and in belief by the same Confucian civilization; and on vital questions like the industrial development of the country and the reorganization of national defence, the Manchus, the Mongols, the Tartars, and the Chinese of the North and the South are essentially at one.

The real difficulty in the growth of public opinion in

[1] J. S. Mill, *Representative Government*, p. 294 (Everyman Edition).

[2] Report on East Indian Constitutional Reforms.

[3] *Public Opinion and Popular Government*, p. 34.

China is that the people at large are not always interested in politics. The average Chinese is industrious, honest, and virtuous, but to use an Aristotelian phrase, a good man is not necessarily a good citizen.[1] In a country where representative institutions exist, every citizen has rights as well as duties. He should exercise and defend his rights, as well as fulfil and perform his duties. But in China, government of the country has always been considered the business of a few persons superior in character and in intellect, and not the concern of ordinary citizens. Government by intellect may have its advantages, and the so-called government of the people, by the people, and for the people in America and in Europe may not in practice amount to more than a government by a few active members of the community ; but China differs from America and Europe in this respect. In America or Europe the public may be unable to form a judgement of their own on a complex and composite question, but they take an interest in the opinion of those who are better informed and thus become leaders of public opinion. In China the vision of the average peasant or workman does not go beyond his village or workshop, and his interests are confined to his family. He obeys the ordinance of the Government, if it does not interfere with his occupation. He exercises his right to revolt, if it is obnoxious. He has no notion that he, together with his fellow countrymen, has the power to determine what kind of laws and administration he should get ; and he has no idea that, if he possesses a vote, he should have a representative in Parliament who should truly represent his interest.

So far I have indicated the difficulties of China in working

[1] *Politics*, iii. 4, § 5.

her representative government, but difficulties are no deterrent. In fact, it is only through a realization of these difficulties and an attempt to solve them that we may hope to establish representative institutions on a solid foundation. Moreover, these difficulties are not peculiar to the Chinese. They have been experienced by European countries which adopt this system of government. After the passing of the first Reform Act of 1832 in England which enfranchised the middle class, the outstanding cry was 'Democracy without education is a great danger'. The ingenious and constructive statesman, Mr. Robert Lowe, summarized the situation after the second Reform Act in 1867 by saying that 'we must now at least educate our new masters'. China is now more or less in the same position as England before 1832, and it is only by educational efforts that the people can be brought up to the standard required by representative government.

But, as Mr. Curtis points out in his 'Letters to the people of India on Responsible Government', people will never get the political education required of them if they are to wait till the opening of schools in which to train themselves. The opening of schools throughout a vast country is a laborious process and the training takes time. Moreover, schools are not the place to train citizens for political purposes, though they may give them information and knowledge which will enable them to understand politics. Actual participation in politics is always the best and the easiest means of getting political education, and leaders of public opinion often arise from the school of practical politics. The enfranchisement of an ignorant mass may temporarily produce unwholesome results, but it is the only way to arouse its interest in politics. It is the only

way by which the people can be compelled to discuss political problems and think of the meaning of the franchise. In fact, it may be said with truth that although the dissolved Chinese Parliament did not work well, it has already made a large number of Chinese think more of politics.

The proportion of 1,000,000 inhabitants to every representative is, as already stated, too large, but it is difficult to diminish it, as the number of representatives must be limited so as to reduce the lower House to a workable size. The present assembly of five to six hundred persons is too large to deliberate on serious problems, and the size of the dissolved House of Representatives of China is perhaps accountable for its excesses. A further reduction of its size would, on the other hand, only increase the inadequacy of representation of the electorate, and a small assembly pretending to represent a large number of electors and numerous interests would tend to become autocratic.

But the complicated character of indirect election and its hindrance to the education of the electorate, as stated above, are not necessary evils. I see no insurmountable difficulty in holding direct parliamentary elections even in large single-member constituencies, and, on the other hand, the process of election detailed above is much too complicated for the average Chinese to understand, apart from objections to it on theoretical grounds. It is easy and expedient to declare the candidate elected who has got a larger number of votes than any of his rivals. The fear is that, at present, when political parties in China are not well organized, there may be many candidates in one constituency and that the candidate who gets more votes than any of the others may only get a small fraction of the

total number of votes cast. But this fear may be equally justified in the case of an indirect election, as voters in the second stage may also distribute their votes among numerous candidates. Proportional representation or any other similar device will be difficult to work in China, as it will require some political intelligence for the electors to grasp such a scheme. But a direct election with all its defects will be simpler than the indirect, as it can be effected in one stage.

There is at present no difference in the functions and powers of the two Houses. These functions and powers are :

(1) To pass all laws.
(2) To pass the budgets of the (Provisional) Government.
(3) To pass measures of taxation, of currency, and of weights and measures for the whole country.
(4) To pass measures for the incurring of public loans and to conclude agreements affecting the National Treasury.
(5) To give consent to appointments of Ambassadors, Ministers, and Cabinet Ministers ; to declaration of war and conclusion of peace ; and to general amnesty.
(6) To reply to inquiries from the Government.
(7) To receive and consider petitions from citizens.
(8) To make suggestions to the Government on laws or other matters.
(9) To introduce interpellations to the members of Cabinet and to insist on their being present in Parliament to make replies thereto.
(10) To insist on Government investigation into any alleged bribery and infringement of laws by officials.

(11) To impeach the President, if he be held to have acted as a traitor by a majority vote of three-fourths of the members present with a quorum of more than four-fifths of the total number of members.

(12) To impeach any member of the Cabinet, if he be held to have failed to perform his official duties or to have violated the law by a majority vote of two-thirds of the members present with a quorum of over three-fourths of the total number of members.

Both the law of 1912 and that of 1918 provide that each Chamber can conduct the following business independently: (1) Institute a debate; (2) Decide on interpellations; (3) Demand an investigation of charges of bribery or violation of the law against officials; (4) Reply to inquiries from the Government; (5) Receive petitions from the people; (6) Permit the arrest of its members; (7) Adopt regulations and rules of procedure. Estimates and accounts of the Government should, however, be first discussed in the lower House.

It is on the model of Italy and France that the two Houses of Parliament should possess the same functions and powers, but in practice the Italian and the French Cabinets are only responsible to the Chamber popularly elected; and they rarely resign on an adverse vote of the upper House.

In the United States, the Senate exercises administrative and judicial functions in addition to its legislative duties, while the House of Representatives is confined to legislation.

In China the powers of the two Houses should not be co-equal. The Senate, which, according to my plan, is nominative, and is therefore very likely to uphold the

Government point of view, should be granted some powers which are denied to the other House. Of these powers, the most important will be those relating to foreign affairs. Diplomatic questions may not be discussed in public and should be free from the scrutiny of the lower House. But to prevent the Government from acquiring too much independence in its conduct of external relations which often affect the vital interests of the State, it will be reasonable to lay down the rule that sanction by the Senate is necessary for the ratification of treaties, including treaties of peace, and for the declaration of war. The provision that sanction of the Senate is required for official appointments of certain kinds will also put some restriction on the power of appointment enjoyed by the Executive and be a precaution against its indulgence in personal favours.

The question will then arise whether the Cabinet should be made equally responsible to both Houses, because the second Chamber exercises some functions denied to the first. It seems certain, however, that so long as the first Chamber retains the power of financial control and that of impeachment of the President and Cabinet Ministers, it can always keep a hold over the Ministry. Foreign policy of any importance must affect the national finance, and an official appointment unacceptable to the lower House can always be brought up for criticism when the budget of the department responsible for it is introduced into the House for discussion. It can therefore be said that the principle of Executive responsibility to the lower House alone need not be impaired, even though powers and functions are divided between the two Chambers. In that case, it is not necessary for the Government to resign on an adverse vote

of the Senate, so long as it is supported by the House of Representatives.

The power of impeachment is possessed both in America and in France by the lower House, and there is hardly any reason that China should grant it to both Houses alike. It should be reserved to the lower House. It has been suggested that as the Censorate worked well during the Manchu reign, it should be revived to exercise the power of impeachment instead of Parliament, but a Censorate will necessarily be appointed by the President on the recommendation of Cabinet Ministers, and it will be difficult to expect justice from censors in cases involving the honour of those who appoint them.

According to the Provisional Constitution, the impeachment of Cabinet Ministers involves their removal from office by the President and, if necessary, a trial by ordinary courts. But the impeachment of the President would involve a trial by a special court. The suggestion made by some Chinese publicists that the President who has been impeached should be tried by the Senate, is in conformity with the procedure adopted in France and in the United States, but these countries both based their laws of procedure on that of England, where the House of Lords is the Court of Final Appeal. In China, trial by the Senate would give the Legislature too much power over the Executive, and, if the Senate is nominated by the President, it is hardly suitable for the function. Moreover, trial in a case of impeachment requires judicial skill which it will be difficult to expect many members of the Chinese Senate to possess. It will be a safer course to entrust the trial to a special court. But it may again be objected that a special court necessarily consists of judges chosen

from ordinary courts, and that the judges of these courts, as they now exist, are equally incompetent to try cases of State importance. This charge against the judges is doubtful, but, at all events, judges have far more opportunities of gaining legal experience than senators, and in time the former will prove themselves far more competent than the latter in judging cases of impeachment.

Both the law of 1912 and that of 1918 provide that the Senate shall be elected for six years with one-third of its members retiring every two years; and that members of the lower House shall be elected for three years. Both of these laws are silent as to the dissolution of either House. It has already been said in the section on 'President' that he should possess an absolute power of dissolution, and it is hoped that when the Permanent Constitution is drafted, the omission will be made good.

According to the law of 1912, no meeting can be held unless more than half of the total number of members are present. This is intended to be a safeguard against the hasty transaction of important business by a small number of members. But in the Chinese Parliament there are no whips to secure the attendance of members; and if the minority in opposition to a bill are not strong enough to destroy it by voting, they will often abstain from attending the meeting at which the bill is discussed. The 'filibustering' which is a recognized mode of procedure in American Congress has assumed a negative character in China, and the result is that whenever a bill is unacceptable to a minority and does not interest all the members of other parties who combined to form the majority, it can be so long delayed merely by the deliberate absence of the minority members that it is finally dropped. Moreover, at

the present time, when the party organization is imperfect, the so-called majority shifts from day to day, and a handful of active members can always get hold of a number of followers and induce them not to attend meetings, with the result that the bill is lost through the absence of the necessary quorum. It is hoped that the quorum will be lowered down to a much smaller proportion, say one-fourth of the total number of members, and this will facilitate the passage of bills through the House. Measures should be taken to compel the attendance of members, and they should be made liable to be unseated by the Speaker, if they abstain from attendance without good reasons.

In conclusion, it is necessary to make one remark. Throughout this chapter I have maintained that the powers of the Legislature should be restricted and that the Executive should be secure. The restriction is not only necessary to make the Executive stable and secure, but also to prevent legislators from taking advantage of their mandate to promote their own ends. Tyranny by representatives can be easily developed in a country where public opinion exercises no control over members of Parliament. But it will be grossly misleading, if the reader derives from this chapter the impression that Parliament may be dispensed with in China. In fact, it should be most firmly established so as to check the Cabinet. Tyranny by representatives may be undesirable, but despotism by the President and the Cabinet is equally unwholesome. Not long ago, the Government mortgaged many resources of the country for loans contracted with Japan. The ostensible object was to finance military expeditions against the South, but the actual result was to enrich the private purses of military

leaders and political adventurers. Such jobbery was resented by all the thinking Chinese, and if a Parliament properly elected had then been in existence, it would probably not have occurred. The stability and efficiency of a Government depends on the balance and co-operation between the Legislature and the Executive, and not on the overwhelming of one by the other.

### § 4. *Judiciary*

China, as pointed out in the section on the Cabinet, has had an executive department of Justice since ancient times, but, till recently, she never had a Judiciary separated from the Executive. All her public servants with a so-called 'independent seal' were at once administrators and judges.

The magistrate, in addition to his duty of maintaining order and collecting taxes, exercised jurisdiction over all civil and criminal cases within his district; and the appeal cases from his court were tried by the prefect, who was also an administrative official. The prefect, in the event of being unable to satisfy the litigants, referred the case to the provincial Judge, who, notwithstanding his title, was always called upon to perform executive duties. Moreover, he was not independent, and his judicial decisions were subject to the veto of the Governor or Viceroy. In fact, in criminal cases of importance, the trial was not held before him, alone or together with his assistants, but under the presidency of a tripartite bench, consisting of the Governor or Viceroy, the Provincial Treasurer, and the Judge. Military commanders had, of course, courts martial to try cases involving persons under their discipline, and even Superintendents of 'Grain Tributes' to Peking and of Salt Districts exercised jurisdiction over cases affecting their administration.

In Peking there was a Supreme Court of Final Appeal, but, by Imperial Ordinance, the Ministry of Justice might also be constituted as a court to try cases of high treason and appeal cases of serious consequence. Throughout the whole country there were no separate benches or different procedures for civil and criminal cases.

In 1906 an attempt was made to reorganize the law courts on the European model, but it is only since the establishment of the Republic in 1912 that the Judiciary has been kept distinct from the Executive and the distinction been maintained by the appointment of two different sets of officials. The Supreme Court in Peking has been reorganized and is now divided into civil and criminal courts, each of which is presided over by a bench of five judges. As under the old régime, it is the Court of Final Appeal for the whole of China ; but it also exercises original jurisdiction over cases of high treason or those affecting the safety of the State. Up to the present, the Judiciary in China is powerless and the Executive omnipotent ; and, consequently, the disputes between provincial governments are not adjudicated by the Supreme Court, as is the rule in the United States, but by the Minister of the Interior. Over criminal offences committed on the high seas and cases affecting foreign Ambassadors and treaties with other countries which, in the United States, come under the jurisdiction of the Federal Court at Washington, the Supreme Court at Peking is competent to deliver a judgement, but so far no such case has ever come before it.

The Supreme Court of the United States has established its fame mainly by its work of interpreting the Federal Constitution. In China the Provisional Constitution is silent as to the competent authority of interpretation, but

it has been proposed that it should be entrusted to the National Assembly composed of the members of the two Houses of Parliament. This proposal would not only deprive the Supreme Court of an important function, but it would also give the Legislature an overwhelming power in government, as it would then combine in itself the functions of making and interpreting, and in fact, according to the same proposal, of amending the Constitution. Throughout this volume I have asserted that the powers of Parliament should be restricted, and it would be destructive of the 'Separation of Powers' if the Legislature were allowed to interpret the fundamental law of its own creation. Moreover, for many years to come, there are sure to be disputes between the Legislature and the Executive over their respective constitutional powers, and it is only in a powerful Judiciary, with full authority to interpret all laws of the land, fundamental or otherwise, that we may hope to find an adequate solution of these disputes. Throughout the history of China, executive officials have never been accustomed to expect censure and inquest from an assembly whose function is to talk, but they are not unfamiliar with the notion of subjecting themselves to the decisions of law courts, as the Penal Codes of the old China are elaborate in their provisions for punishing Government officials who neglect their duty or commit inappropriate acts. It is therefore hoped that when the Permanent Constitution is drafted, the Supreme Court will be granted the authority to interpret the Constitution so as to enforce respect for the acts of the Executive and to prevent the Legislature from abusing its power.

In every province there has now been established a High Court which adjudicates on important civil and criminal cases

belonging to the province, and also appeal cases from the Metropolitan Courts. It is divided into civil and criminal courts, and its bench is occupied by from three to five judges.

The Metropolitan Court is established in every ' fu ' area, or the prefecture, comprising a group of districts. It decides ordinary civil and criminal cases and appeal cases from courts of First Instance. Like the provincial High Courts, it is divided into civil and criminal courts ; and its bench consists of three judges for appeal cases and of one judge for cases of first instance.[1]

The Court of First Instance is established in the district and exercises jurisdiction over minor civil and criminal cases. It is divided into civil and criminal courts, but there is only one judge to preside over each.

To every one of the Courts so far described, including the Supreme Court at Peking, there is attached a Court of Public Prosecution independent of the Court of trial. In the interest of justice, it is legally bound to submit all offences to the tribunal irrespective of the wishes of the injured parties ; but in practice it does not initiate any prosecution except at their request. The Chinese have the habit of settling their disputes among themselves, and the creation of public prosecution has so far not succeeded in inducing or compelling them to submit all their cases to public authorities. Although it is now a rule that all cases that are to be tried in a Court must be undertaken by a Public Prosecutor, there is nothing to ensure that offenders against the law shall be prosecuted, so long as the injured

[1] Only in a few provinces have these Courts been opened. In the rest the District Magistrate is temporarily authorized to act as judge, pending the establishment of Courts

party consents not to put his case before the tribunal. In all cases that are to be tried, the preliminary examination is conducted by the Public Prosecutor.

At the present time, Government officials are not subject to the jurisdiction of ordinary law courts for offences committed in connexion with the execution of their official duties. Against these offences the Administrative Court in Peking enforces laws, orders, and ordinances. The immunity of Government officials from the jurisdiction of ordinary tribunals is believed to be a guarantee against the interference of the Judiciary with the Executive. It is necessary in China, in view of the traditional distinction of officials from persons of other professions, and of the incompetence of ordinary law courts (at present) to try cases involving administrative details; but it would be no adequate guarantee for the liberty of the people against the tyranny of Government agents if administrators of all ranks throughout the whole country could only be sued and tried by a single tribunal in Peking, as is the case at present. It is therefore essential that administrative courts should be established all over the country (say one for each province), so as to give the people ready means of settling their grievances against Government employees. These courts, while they are competent to try all officials except the impeached President, should not be permitted to interfere with cases affecting the Constitution, which, as already noted, should be reserved for the Supreme Court of Final Appeal.

All the judges in China, including the Chief Justice of the Supreme Court, are appointed by the President, though in the case of judges of inferior courts the appointment is usually made on the recommendation of the Minister of

Justice. According to the Provisional Constitution ' judges shall be independent and shall not be subject to the interference of higher officials ', but it is natural that, in a country where the Judiciary is only recently separated from the Executive, the independence cannot be established all at once. Moreover, it is difficult to expect all the judges to be free from the interference of the Executive, as most of them owe their appointments to the Minister of Justice, who by virtue of his membership of the Cabinet is an executive official. It is true that in England and France, where the independence of the Judiciary is well maintained, the power of judicial appointment is vested in the Lord Chancellor in one case and in the Minister of the Interior in the other, who are both Cabinet Ministers. But the integrity and the reputation of the English and the French judges are built up on the traditions of centuries which are lacking in Chinese courts. To maintain the independence, much depends on the personal character and training of judges ; and the long practice at the Bar which English and French judges have had before they are appointed to the bench gives them the necessary experience and ability to defend their rights against any attempt, on the part of the Executive or the Legislature, to interfere with their functions. In China there is, as yet, no such thing as an organized Bar, and the judges in all courts are mostly graduates of a law school (Chinese or foreign), equipped with some book-knowledge but without the experience that can only be acquired by practice. No doubt, with the advance of time, the Bar will be organized and the judges will be chosen from the legal profession ; and it may then be hoped that judicial independence will not only be asserted on paper but established as a fact.

To maintain independence, judges should be made secure in their tenure of office. In most Western States, judges hold office during good behaviour, and in England they can only be removed on the presentation of an address to the King by the two Houses of Parliament. In China, according to the Provisional Constitution, 'judges during their continuance in office shall not have their emoluments decreased and shall not be transferred to other offices, nor shall they be removed from office, except when they are convicted of crimes or of offences punishable according to law by removal from office'. This clause, like that relating to judicial independence, is at present ineffective. It has often happened during the past five years that judges have been removed for no reason except the personal dislike of the Minister of Justice, or the need of room for some other nominee.

It is true that at the present moment, when judges in China are not always well qualified, there are good reasons for removing them on the ground of incompetence. But the charge of incompetence is too flexible and may be pleaded by the Minister of Justice to cover mere personal considerations. It is then important to enact that a judge, once appointed, should always be allowed to retain office for a minimum period of, say, three years. It will give him time to prove his capacity for the post ; and, if it turns out that his achievements do not come up to the expectation on which his appointment was based, he may then be removed. To ensure that the charge against him is not unfounded, it should be examined by a legal Commission consisting of a few judges and representatives of the Ministry of Justice. Such a commission would be similar to those established in Italy by the decree of January 4, 1880,

which authorized them to examine cases of transfer of judges.[1]

China is in a state of flux, so far as her codes are concerned. Towards the end of the Manchu reign, new civil and criminal codes drafted on the model of Japan were promulgated, and they are now adopted by the Republic as temporary laws with some modifications necessitated by the change in the form of government. They have to be recodified and do not contain any item of special interest, as they are almost an indiscriminate importation from Japan. It will, therefore, be more valuable to know something of the laws of the old China (before the recodification of 1908) than to examine the codes which will soon be replaced by others more carefully drafted and better suited to the customs and beliefs of the Chinese.

As already stated, the family in China is an integral part of the government[2] and is in charge of the multifarious activities which in the West would be the functions of the municipal or the national Government. It is the chief of the family who is responsible for the registration of births and deaths, for the sanction of marriage and divorce, and for the recognition of legitimacy and adoption. He maintains discipline among the members of his household and denies them the right to hold separate property on their own account. He is therefore the only authority that initiates and authorizes the division and transfer of property, the establishment of mortgage and joint-ownership, and all kinds of testamentary disposition. Even a murder or

[1] According to the Provisional Constitution, 'the trial of cases in the law Courts shall be conducted publicly, but those affecting public safety and order may be in camera'. 'Jury' has not yet been introduced into China.

[2] *Supra*, ch. 1, p. 8.

homicide, committed by one member against another of the same family, may be quietly settled by the chief; and crimes committed between members of different families may also be settled by a mutual agreement of the heads of the clans concerned.

In commerce, different trading guilds have elaborate rules to take the place of a modern commercial code. The banking laws provided by the bankers' guilds are enforced by their executive councils. Caterers and grocers, fishermen and butchers, doctors and midwives—all have their guilds and rules to protect the interest of the trade and to decide all disputes that may arise between the members of a single trade or of different trades. These guilds have no power to inflict criminal punishments, which are reserved for the district magistrate, but they are fully entitled to impose a fine to almost any amount on the defeated litigant in order to compensate the injured party.

It is only on rare occasions, when the guild or the family finds itself unable to pass a judgement on the dispute, or the parties concerned refuse to abide by its decisions, that the district magistrate is approached for a judicial examination. The magistrate, in deciding the case, would not be guided by any family rule or guild convention, which is generally unwritten, but by the local customs of the district or the precedents of similar cases. In modern judicial terminology, he would apply Common or Case Law. But in China, local customs differ in different districts, and cases have never been systematically reported. The consequence is that the magistrate, in applying these unwritten laws, would rely to a very great extent on personal knowledge of the district and his memory of cases—a memory assisted by that of his legal clerks.

In criminal cases, which were, as a rule, brought up to the courts for trial, we find that the magistrate was bound to apply the Penal Law, which was the only written code of China (before 1908), and the history of which dated back from the time of the Chou dynasty. The preventive idea of a criminal law was much emphasized in China, as can be seen from the words of an Imperial Edict issued in 1878 that 'the chief ends proposed by the institution of punishments in the Empire have been to guard against violence and injury, to repress inordinate desires, and to secure the peace and tranquillity of an honest and unoffending community'. 'The great thing is to prevent crime; and to consider it is to encourage wrong-doing.'

The castigatory idea being dominant, it was not surprising to find that punishments inflicted were harsh and severe. The five punishments inflictable in China were (1) whipping, (2) flogging, (3) bastinado, (4) strangling, and (5) decapitation. During the Manchu reign, it was found that even these punishments failed to prevent crimes, and lynching after death was added in the case of treason or murder of parents or grandparents. This new method of punishment of the dead was abolished in 1906, and the other five kinds of punishment have since then been abolished and replaced by fine, imprisonment, and shooting to death.

I have already said that there is no organized Bar in China. Under the old régime, magistrates were mostly not conversant with the law, in spite of the provision of the Criminal Code that they 'ought to study diligently, and make themselves perfect in the knowledge of these (criminal) laws, so as to be able to explain clearly their meaning and intent, and to superintend and ensure their execution'. In criminal cases they were assisted by law-clerks, who did not

occupy an enviable social position, as they were accused of trying to encourage and instigate crimes so as to make profit at the expense of litigants. These clerks were mostly natives of the Shao-Shin district, in the province of Chekiang, who received their education from their elderly relatives. Their legal training might be sound, but they were not qualified or certified by any public or professional authority. They advised the magistrate and prepared statements for him. They also wrote petitions and memoranda for the litigants, but they were not allowed to appear in the court to plead for the plaintiff or to defend the accused. There had never been such an institution in China as a Counsel for the Defence, and whipping and flogging were sometimes employed to exact confessions.

With this mode of irregular procedure, unqualified judges, and severe punishment, the Chinese have acquired the habit of avoiding litigation, and taking it as a misfortune when they are compelled to attend a court. In the eyes of the modern jurist, the Judiciary in the old China was objectionable and the punishments were monstrous, but it should be remembered that torture was practised in France before her Revolution of 1789, and that as late as 1814 an Englishman guilty of treason might be cut down from the gallows while alive, and have his entrails taken out and burnt before his eyes. China may be a century behind the Western States in her legal reforms, but she is traversing the same path which England and France have already trodden.

# 4

## *Provincial Government*

### § 1. *Relation of the Central to the Provincial Governments*

In the section on 'North and South', chapter 2, I have stated that the North differs from the South in temperament and in army organization; that, in this time of their armed conflict, they are each divided into governorships, which are virtually independent; and that the solution of their entanglements is bound up with the settlement of the relations of the Central to the Provincial Governments. Let us now proceed to inquire into those relations which exist in times when the country is not ravaged by civil war; and to suggest lines on which they should develop.

It should again be emphasized here, that, taking the size of her territory and population into consideration, China presents a greater degree of uniformity than any other nation. Throughout the whole country—apart from Mongolia and Tibet, which are governed as dependencies under different regulations—there is practically no difference in race, in language, or in religion. The Manchus, who do not belong to the Chinese stock, have, nevertheless, been so thoroughly absorbed by the Chinese that they have lost their original characteristics; and the Mohammedans are numerically not strong enough to disturb the equilibrium or to destroy the uniformity of the country. It is therefore easy to divide China into different administrative units and

to unite them under one central government without encountering difficulties which beset countries like India, where the racial, the religious, and the linguistic differences divide up the Peninsula to such an extent, that not only the institutions in the various parts of it should be different, but the fundamental principles underlying them should be also diverse.

In China, however, a uniform system of administration has been introduced and maintained since the second century B.C., when the so-called feudalism was abolished. The division of provinces and the system of provincial government have been altered in different periods of Chinese history, but the broad principles of the relations of the Provincial to the Central Government have always been the same, and these principles may be summarized as centralization.

Centralization, as a system, has much to recommend it. It secures uniformity; it maintains unity; and in time it diminishes the differences in social and political developments throughout the country by enforcing one and the same system of administration. Moreover, it was peculiarly suited to China, where the intellect of the whole country was attracted by competitive examination to the Imperial Academy at Peking, the membership of which was considered the best qualification for an official career; and where the people themselves did not care to take into their own hands the direction and management of provincial affairs.

Centralization has, however, not always been effective. Throughout the long history of China, it is only under the vigorous and far-sighted Emperors, of whom there have been but a few, that the orders and rules issued by the

Central Government have been obeyed and executed by provincial authorities. Most of her rulers, through their inactivity and indifference, have permitted governors and viceroys to assume excessive powers and to arrive at independent decisions without their formal sanction; and, in times of difficulty, they are compelled by circumstances to share with them responsibilities which, according to the law, are reserved to the Emperor and his Council. Capable and resourceful governors and viceroys, through their control of provincial revenue and through their personal energy and influence, often initiate and promote enterprises which would eventually make the Central Government dependent upon them for vital decisions affecting the honour and interest of the State. The latest instance of this state of affairs is found in the fact that under the Manchu régime many viceroys, led by Li Hung-chang and Yüan Shih-k'ai (both in Chili), trained an army on the European model with their provincial revenues, and finally established their influence to such an extent that they virtually combined the dual post of Viceroy and Minister of War. The result was that the Government in Peking could not execute any military scheme or enter into war with a foreign Power without their hearty approval and ready co-operation. The absence of a centralized control in the Chinese army was obvious to the Marquis Ito of Japan, when he, in reply to a criticism on his policy of war with China on the ground that the latter's resources in wealth and man-power far exceeded those of his own country, stated that China was a Confederation of eighteen states (provinces) and that war with her was only a conflict with the province of Chili, and not with the whole Empire. The indifference of the other provinces to the military

operations was in fact largely responsible for the chaotic state of the Chinese army and for its swift and hopeless defeat in the field.

On the other hand, the increasing power of the viceroys on several occasions saved China from humiliating disasters caused by the incompetence and ignorance of the Central Government. The most notable occasion was that on which the viceroys of the three Yangtze provinces, in which the European commercial interests were the strongest, ignored the decree of the Empress Dowager to support the Boxer Movement, the object of which was to save China from foreign aggression by killing all aliens in her territory, and actually afforded special protection to the foreign residents, thus restricting the movement to the North and saving China from a greater humiliation than that which was inflicted on her by the Powers in 1901 in revenge for the loss of life and property suffered by their citizens or subjects in the course of the insurrection.

Although it was expounded by Yüan Shih-k'ai in his inauguration speech of 1913 that 'the original meaning of loyalty is loyalty to the State and not to the individual',[1] it is now evident that, since the overthrow of the Dragon Throne, the governors of the different provinces are no longer loyal to the Central Government. The successive Revolutions in the last six years have all resulted in an increase of their independence; and the Presidents and the Prime Ministers, unable to establish their own authority by the force of law, are compelled to tolerate their arrogance and to acquiesce in their defiance. In truth, the Central Government depends for the maintenance of its authority on the support of the governors,

[1] Cd. 7356, *Affairs of China* (1914), p. 61.

and this support is only granted on the condition that the latter are not restricted in the enjoyment of their own independence.

Even in the absence of this separatist tendency of different provinces, the growth of modern activities has made the system of centralization obsolete. It is impossible to expect all government departments in Peking, however efficient, to initiate, execute, and supervise numerous social, industrial, and economic reforms in all the provinces, as they are hampered by the distance from the scene and the difficulties in getting an inside knowledge of local conditions. In a territory so extensive in area and so rich in natural resources as China, it is indeed necessary for the Central Government to devolve some of its functions on the provincial authorities, if it is to develop the country on a comprehensive scale and by Western methods. Moreover, devolution has already begun in China in a small way, and its beneficial effect may be judged by the fact that, in the few provinces in which modern education and industry have been introduced, it is largely due to the energy and activity of the local gentry, with the encouragement of an enlightened viceroy, that the enterprises are crowned with success; and that while the reforms are proclaimed by the Central Government for all provinces alike, the extent to which they are carried out depends invariably on the enthusiasm and ability of the viceroy and his willingness to co-operate with the provincial gentry.

Moreover, the introduction of modern reforms has tended to diversify the country, which has hitherto been made uniform by the Confucian civilization. Some provinces, owing to their geographical situations, are more susceptible to foreign influence and, in consequence, more

adaptable to modern conditions. Others, especially those farther away from the sea coast, are less progressive and less ready to introduce reforms.

The difference in this respect between the North and the South is explained in a preceding chapter, but in the North and in the South alike each province differs again from its neighbour. Each province may have to develop itself in its own way, and it is only through a system of devolution that each may solve its own difficulties.

Speaking on the relations of the Central to the Provincial Government, Mr. Hsiung Hsi-ling, at one time Prime Minister of the Republic, says :

'The position of our province is between that of an area of local government and that of a member of a federal state. It cannot be entirely recognized as the former, or as having the attributes of the latter. If we adopt the federal system in order to raise and sustain the position of the province, and to bestow upon it some of the powers of the central government, thus making the administration of the whole country more likely to be thorough and efficient, it will be the most suitable system, taking all things into consideration.'

The federation of China, if adopted, will differ from that of the United States, by the fact that the latter was produced by a union of States which had hitherto been sovereign and independent ; and that the former will be produced by the transfer of duties and powers to States which have hitherto been considered as integral parts of a united country under the sway of a Central Government.

In the United States, the powers of the Federal Government are enumerated, all the rest being reserved to the States ; in China, the powers of the States (provinces) will be enumerated and the rest will be reserved to the Federal

Government. The Federal Government of America cannot extend the list of its enumerated powers without an amendment of the Constitution approved by the States, but in China the process would be just the reverse. The Central Government will be able to increase its powers and duties at its pleasure so long as it does not interfere with those granted to the Provincial Governments. It may diminish them by transferring them to the Provincial Governments, provided the latter are willing to accept them. The nearest parallel to the federation of China will be that of Canada, where the State rights are enumerated and the rest reserved to the Central Government.

Federation is said to be a form of government beset with difficulty on account of the conflicts that may arise between the Federal and the State Governments, but this will not necessarily be the case in China. People are often misled by phraseology when they discuss political problems; the scarcity of words and terms compels us to denote different things by the same names. The Constitutions of the United States, of the German Empire, of Canada, of Australia, and of South Africa, differ from each other very much, but they are all called federal. The system I recommend for China will merely involve the devolution of certain powers, and it is only called federal because of the absence of a better name. The Central Government may even be the final authority to make and amend provincial constitutions, and be authorized to enforce uniform laws, fundamental or otherwise, in some or all of the provinces. It may be authorized, as it is now, to appoint provincial governors and other provincial executive officials, so long as it does not interfere with the functions exclusively reserved for the province.

It will be a matter of detail to determine what powers should be enumerated and delegated to the provinces. The extent of devolution will depend on expediency and circumstances. Probably at this time, when the transition from centralization to federation is regarded by the majority as a novelty and a bold step, the powers to be devolved should be limited. Foreign affairs, tariff, inter-provincial railways, and any concern that affects the country as a whole or more than one province, should always remain in the hands of the Central Government. It may be even desirable that university education should be directed and supervised by the Central Government, as several provinces may have only one university and its financial support may involve inter-provincial controversy. Pure provincial affairs, such as secondary and elementary education, sanitation, local industries, and all other things that may be included under the terms of local government, should be entrusted to the provincial government.

The provincial authorities having been made exclusively responsible for the administration of certain functions, there will be opened in every province a new field of employment for a large number of Civil Service candidates who would otherwise go through the difficult process of making their way to Peking in order to obtain their 'loaves and fishes' by favouritism or other undesirable means. They will then have the opportunity of training themselves for administrative work in their own province and form the reserve from which the Central Government can draw its supply of experienced officials.

The same thing is true with the legislative branch of the Central Government. As noted elsewhere in this volume, Parliament in China is not representative, as both voters

and representatives have not been trained to understand what is required of them. A separate legislature in the province will be a useful institution to train the prospective members of the Central Parliament.

The election of the provincial assembly, and the interest that will be aroused in connexion with it, will teach the voters many useful lessons which will enable them to exercise discretion at the time of electing a Parliament for the whole country. The upper and the middle classes of the Chinese have always been more interested in provincial than in central politics, and the devolution of provincial legislation to a provincial assembly is therefore not only a step towards the development of a self-governing spirit but is also best suited to the existing situation.

Of the many problems relating to the division of functions between the Central and the provincial Governments, the question of finance is the most urgent. At the present time, the Government in Peking is supposed to have the power to dispose of all provincial revenues, but, in practice, it gets no regular receipts from any province. The Governors, instead of remitting money to Peking, demand from it financial support. They issue no budget, and the annual receipts and expenses in the provinces are open to no inspection by the Central Government. Taxes and imports are collected as usual and new charges often made, but there is no account of expenditure. Such a chaotic state of finance will, it is hoped, come to an end when military despotism has been overthrown and the provincial assembly established, but it is at the same time important to enact and carry into effect that the central revenue shall be settled and collected directly by the Central Government

without the interference of the provincial governors. The desirability of this arrangement may be illustrated by the example of the Customs Administration, which, being independent of provincial authorities, regularly supplies the Central Government with revenue at a time when it receives no remittance from the provinces.

With an independent supply of revenue, the Central Government will be able to centralize the control of the army, which even in a federal country should always be kept in the hands of the central authority. Hitherto, the different divisions of the Chinese army, stationed and trained in a certain province, are maintained by its revenue, and the consequence is that the army has acquired provincial associations and lost its national character. It should henceforth be enacted that no province be permitted to maintain an army of its own and that the provincial names prefixed to different divisions and regiments should be abolished. There is no need and no justification for stationing a few divisions in every province. Some provinces are only within one or two days' distance from Peking, and, in case of emergency, there is ample time to dispatch troops from the capital. In the more distant provinces, the permanent stationing of troops is perhaps expedient in view of the urgency of local disturbances, but the experience of the last few years has clearly proved that the distribution of troops in different parts of the country is productive of internal disturbance, and that, in the absence of discipline among the inadequately paid troops, it is sometimes impossible to distinguish between the soldiers and the brigands whom they are expected to suppress. It is therefore hoped that the centralization of army control, and the concentration of troops in a few localities only, will save

the Central Government from falling a victim to the mercy of military commanders and the country from unnecessary troubles. Mr. Hsiung Hsi-ling, whom I have already quoted, writes as follows in connexion with this point :

'As the Central Government should have full power to command the army and the navy, the first thing to do is to mark out by law military circuits which are to be independent of provincial administration and not to interfere with it. The delimitation of military circuits should not be influenced by administrative areas. One circuit may include several provinces, or one province may contain several circuits. Divisions and regiments are not to be posted permanently in the circuits where they are stationed but may be moved at any time by the Central Government from one circuit to another. Military men will then have no means to interfere with affairs outside their own sphere. Civil and military administrations being thus separated, the administrative power of the province *naturally* belongs to the provincial chief and cannot be held conjointly by a military man.'

Referring to the present entanglement between the North and the South, he goes on to say :

'I consider that the most frequent cause of civil wars in our history is to be found in the unification of civil and military power, and in the combining of central and provincial administration, and that the present struggle is largely due to these two causes. . . . And it is only by an adoption of the federal system of government, that we may hasten the solution of these two problems and that, after their solution, we may have a guarantee that they will never occur again. The reason is that, after the adoption of federation, the Central and the provincial governments will each have their own powers. So will the civil and the military authorities. Power will then be based on the foundation of the State, and be expressed in

the Constitution. They will mutually help each other, and will not conflict. The present civil war is entirely due to the inability of the Central and the provincial governments and of the civil and the military authorities to exercise each their own powers. The Central government wants centralization and therefore extends its rule in the provinces by despotism. The provinces want division of power and therefore resist the rule of the Central governments by revolution. The so-called military men have originally no independent intentions of their own, and no wish to cause trouble. Those in favour of the Central government become involved in despotism; and those in favour of provincialism become involved in revolution. Despotism and revolution each go to the extreme and become recurrent. Finally, the Central government has no power to centralize and the provinces have no power to divide. They only promote the condition of killing and suffering over the whole country.'

The lucidity of his language, the sincerity of his desire to save the country, and the rich experience he gained from the high office he once held, qualify Mr. Hsiung Hsi-ling to speak with authority, but I do not share his optimistic belief that the adoption of federation is the panacea for all the troubles which confront the country. The internal strife has causes manifold and deep. Stated briefly, they are personal jealousies and intrigues, and unwillingness to compromise personal differences. It is in fact doubtful whether, after a clear division of powers and the adoption of federation, the results will be as happy as Mr. Hsiung Hsi-ling anticipates.

I do not dissociate myself from Mr. Hsiung in his recommendation of federal government. Political machinery is limited in scope and is only expected to achieve moderate

aims. It is impossible by a single stroke of the pen, or by the setting up of a new machine, to improve at once all the defects of a country. But machinery can sometimes solve a deadlock from which the antagonists are striving to escape without losing their credit. It can certainly, in time, alter environment, and diminish the influence of traditions so that the people who adopt it will gradually become fit for new institutions and for new principles and methods of government.

It is for these reasons that I see in federation a solution of the present strife that has threatened to ruin China and has certainly deprived her of a most valuable and much-desired chance of pulling herself together. For these reasons, too, I hope that, through the working of federation, China may be able to develop her resources more rapidly and to afford a wider field of employment to politicians, who will then devote their energy to constructive work, and not to revolution and other kinds of violence.

Federation, if not carefully worked, may doubtless cause violence and fail to achieve competence in administration, but every system of government may produce disappointing results. At times, we have to choose between two evils; and federation in China is a lesser evil than the present-day nominal centralization, with the Central Government powerless to rule the provinces. If federation is conducive to the centralization of army control and to a reasonable recognition of the provincial autonomy which is already a *fait accompli*, it will have done a great deal to improve the present intolerable situation, to enforce the unity of China, and to ensure a reasonably rapid development of the country.

The present objection against federal government for China is her lack of experienced administrators and legislators. The success of Federalism in the United States, as Lord Bryce points out, is due to the fact that the Americans had already been well trained in State governments previous to the formation of the federal Union. The Chinese are, of course, not so well trained as the Americans of that time, but it would be doing them injustice to say that they are incapable of self-government. They will adapt themselves without much difficulty to the new demands on them, provided their curiosity is excited and their sense of duty stimulated. In fact, I believe that the literary and business men of some means in the provinces, who, as members of the gentry, have already taken active parts in provincial politics, are much less infected with officialism and bureaucratism than the officials in the different departments at Peking. They can, on the whole, be trusted to conduct a more efficient provincial government than one administered directly from the capital.

The real difficulty, so far as I can see, is that in spite of the limited powers which will devolve on the provincial governments, there can be no guarantee that conflicts will not arise between them and the Central governments. Conflicts of this kind are decided in the United States by the Supreme Federal Court, the verdicts of which are binding on all States. The eminence of its judges and the impartiality of their judgements have won for it so great a respect that nowadays no State or citizen in America ever questions its authority. In China it will not be possible, at any rate in the next decade or two, to secure such an efficient and respected Court, and the conflicts

may be difficult to adjust. But it is hoped that with the settlement of the political situation in the country, and with the gaining of experience by judges, it will not be difficult to make the existing Supreme Court at Peking as efficient as the Federal Court at Washington, provided that it commands the service of promising lawyers who have already distinguished themselves in legal learning and in judicial decisions.

In the first few years of Federation, my fear is that some remote provinces like Kansu and Shensi may not be enthusiastic in taking over the provincial government to themselves. It is, perhaps, not desirable to force self-government on the people before they show a desire for it. To meet this contingency, it is possible to provide that the devolution of powers by the Central Government shall be only applicable to those provinces which have shown their willingness to accept the responsibility, and this willingness may be tested by a plebiscite or by the opinions of provincial and local gentry, who can more or less speak for the inhabitants. At all events, it should be the object of the Central Government to foster the spirit of self-government in the people and to educate it in that direction.

## § 2. *Provincial Government and Government of Provincial Subdivisions*

To understand the structure of the Provincial Government it will be necessary to have some notion of the extent and population of the twenty-one provinces, which are shown in the following table. It leaves out Mongolia, Tibet, and Chinese Turkistan, which do not concern us here, as they are under a different system of administration.

| *Province.* | *Area, sq. miles.* | *Official Census, 1910.* | *Pop. per sq. mile.* |
|---|---|---|---|
| Anhui | 54,826 | 17,300,000 | 315 |
| Chekiang | 36,680 | 17,000,000 | 463 |
| Chili | 115,830 | 32,571,000 | 281 |
| Fukien | 46,332 | 13,100,000 | 282 |
| Honan | 67,954 | 25,600,000 | 376 |
| Hunan | 83,398 | 23,500,000 | 282 |
| Hupeh | 71,428 | 24,900,000 | 348 |
| Kansu | 125,483 | 5,000,000 | 40 |
| Kiangsi | 69,498 | 14,500,000 | 208 |
| Kiangsu | 38,610 | 17,300,000 | 448 |
| Kuangsi | 77,220 | 6,500,000 | 84 |
| Kuangtung | 100,000 | 27,700,000 | 277 |
| Kweichou | 67,182 | 11,300,000 | 168 |
| Shansi | 81,853 | 10,000,000 | 122 |
| Shantung | 55,984 | 29,600,000 | 528 |
| Shensi | 75,290 | 8,800,000 | 116 |
| Szechuan | 218,533 | 23,000,000 | 105 |
| Yünnan | 146,714 | 8,500,000 | 58 |
| Skenkin, Kirin, Heilungkiang | 363,700 | 14,917,000 | 41 |
| Total | 1,896,495 | 331,188,000 | 174 |

It will be seen that the least extensive province, Chekiang, is bigger than Portugal (excluding her colonies), the area of which is 35,500 square miles; and that the most extensive province, Szechuan, exceeds the French Republic or the German Empire (colonies excluded) by 10,000 square miles. The least populous province, Kansu, has a population almost as big as that of the Kingdom of Sweden or of Greece; and the most populous province, Chili, has one as big as the populations of the Austro-Hungarian Empire and the Chilian Republic combined. Under the Manchu régime, every province, were it small or big, populous or not, was governed by a viceroy or governor appointed by the Emperor and assisted by a provincial treasurer and a commissioner of justice, who were also appointed from Peking. In the later

years of the dynasty, a permanent commissioner of education was added to every province.

Each province was divided into circuits, every one of which was presided over by an intendant, commonly known as Taotai, who, besides being the chief administrator of the area, had always some special function, such as the supervision of customs service or the collection of the salt tax. The intendants were appointed from Peking on the recommendation of the viceroy, and they were always subordinate to him.

The circuits, which varied in size, were each divided into prefectures, from two to ten in number. The prefecture was under the rule of a prefect appointed by the viceroy with the approval of the Central Government. It was subdivided into districts, each of which had a magistrate as its chief administrator. Under the Imperial régime there was no distinction between administrative and judicial officials ; and all dignitaries, from the viceroy to the magistrate, were at once civil servants and judges.

The viceroy, the intendant, the prefect, and the magistrate formed, so to speak, a ladder, the different steps of which were represented by different grades of officials who were responsible to the grade immediately above for that immediately below. The provincial Treasurer and the Commissioner of Justice were intended to check the viceroy, as they were all granted equal power of representation to the Central Government, and the Treasurer was even authorized to impeach the viceroy on the grounds of administrative inefficiency or lack of personal integrity. But in practice, they were both relegated to the position of subordinates and were prevented by his personal supremacy from asserting their recognized rights.

Throughout the province there was no elective institution,

but in the provincial capital, the prefecture, the district, or the village, the gentry, consisting of *literati* and men of eminence, were all-powerful. They commanded respect from officials as well as from the populace, and served as the link between the governor and the governed. It is true that their existence had no legal sanction, but in China, as in many other ancient communities, statutes played only a secondary part in the realm of government. Customs and traditions, which were in practice more binding than enactments, had enabled the gentry to exist and to exercise their powers for many long centuries without a single instance in which their authority was questioned. The most obvious defects in their position were that they were not liable to be called to book for the advice they rendered, and that opinions expressed by them were not necessarily heeded, far less accepted, by the viceroy or other officials.

So far, I have described the system of government in the province as it had existed before the Revolution. The changes that have since been introduced are: (1) the separation of the viceroyalty into military and civil governorship; (2) the conversion of the gentry into a provincial assembly; and (3) the abolition of the prefecture as a distinctive unit of local government. Let us discuss these changes in turn.

(1) During the Revolution, military emergency necessitated the creation of military governorships, of which there were often several in the same province. In October 1913, when the Republic had been more or less firmly established, it was thought undesirable to have more than one military governor in each province and to leave its civil administration in the hands of military commanders. The rule was then adopted that each province should have only one

military governor, in addition to whom there was to be a civil governor. During the past five years, this rule has not been strictly enforced, and the Tuchuns (military governors), with the armed force at their command, have always overwhelmed their civil colleagues. This union of military and civil powers is only temporary, and unless the country is to tolerate a continuance of military despotism, it will be necessary to enforce the rule of 1913.

According to that rule, the civil governor is appointed by the Central Government. This has been objected to on the ground that, as some kind of federation has to be adopted in China, it will be necessary to leave the choice of governors in the hands of provincial assemblies, granting that there are practical difficulties in the election of governors by a popular vote on the model of the State Government in the United States. It will, however, be seen that the objection is unsound when it is remembered that the federation for China, as suggested in the last section, only grants limited powers to the province, and that so long as the provincials do not take an active interest in their government, the provincial assembly can easily play into the hands of political adventurers. Moreover, at the present time, when politicians have not as yet acquired the habit of obedience and respect for law, it will be necessary to take precautions against any attempt of provincial revolt against the Central Government. A governor appointed from Peking is, no doubt, more likely to be obedient to it than one elected by the province.

An alternative to this method of appointment will be recommendation by the provincial assembly of three or more candidates, out of whom the Central Government appoints one. This procedure combines appointment with

election, but in case, as may well happen, the three or more persons recommended are all rejected by the Cabinet in Peking, it will be difficult to adjust the ensuing differences.

It will, indeed, be a safeguard sufficiently strong against encroachment by the Central Government on the powers of provincial authorities, if the rule is enforced that, although the governor is appointed from the capital, he is responsible to the provincial assembly. The assembly, being possessed of the power of impeaching the governor, should be in a position to protect itself against his tyranny, whatever is the way in which he is appointed. Moreover, if and when the Central Government is stable and has no need to coerce the provinces, it will bé expected to pay due respect to their feelings in exercising its power of appointment. Mutual respect and toleration promote harmony in the political world, even though no law can supply them.

Under the governor, there should be a number of departments in charge of different branches, such as education, sanitation, and agriculture and industry. The heads of these departments should not be responsible to the assembly, but to the governor, who is responsible to it. There is no need to create a dual responsibility by making them responsible to both, as is suggested by some writers in China. They should occupy the same position as the Secretaries of the Federal Departments in Washington, and not that of the ministers in the different States of the Australian Commonwealth. The case of the Chinese province differs from that of the Australian State by the fact that in the former the Governor has responsible duties to perform, whereas in the latter he is only a representative of the Crown and delegates the real power of government to his ministers.

The creation of the departments should be made dependent upon the requirements of administration. Experience in the past few years has shown that the establishment of a new department is not always followed by initiation of new activities, but affords opportunities to office-seekers of enjoying handsome salaries without doing any useful work. It should therefore be enacted that in the next few years, when the reorganization of the provincial government is in the course of taking shape, no new departments should be created unless it is proved that new activities have already grown up and require additional supervision and direction, or that the financial strength of the province and its command of experts is so strong that a new department will immediately promote new enterprises. In the meantime, the existing staff of the Governor should be improved and enlarged in order to meet the increasing volume of work entrusted to him.

An Executive Council, consisting partly of members appointed by him and partly of members elected by the provincial assembly, should be created to assist the governor. It should be in the same relation with the assembly as that of the Senate with the House of Representatives. The Provincial Assembly is a single-chamber legislature, and it should be supplemented by a Council charged with the functions of investigating bills passed by the assembly, and of advising the governor to veto or promulgate them and to initiate new bills. There need be no fear of overlapping between the Council and the governor's staff, because the former is only responsible for the shaping of policy and for the general supervision of administration, whereas the latter is charged with actual administrative work.

(2) The provincial assembly, according to the law pro-

mulgated in 1913, is elected by indirect election and on the same franchise as that for parliamentary election laid down by the law of the same year.[1] The qualifications and disqualifications for voters and candidates in a parliamentary election are equally valid in the election of a provincial assembly. The electoral area of the first-stage election is coincident with Hsien (district), and that of the second-stage is a group of districts arranged by the Central Government. The number of members of a provincial assembly varies from 184 to 94 according to the provincial population.

The undesirability of indirect election has already been exposed in the section on Legislature, chapter 3. It is defended in the case of parliamentary elections by such arguments as the vastness of the constituencies and the large number of electors, but in the province, with an average population of 15,000,000 returning perhaps 110 members to the provincial assembly, there is no difficulty in adopting the system of direct election by dividing the province into as many constituencies as the number of members to be returned. One member may fairly represent 140,000 inhabitants, of whom half are disqualified to vote by sex and many others by property and educational tests.

The powers and functions of the provincial assembly differ in different provinces, but, broadly speaking, they conform to the Provincial System proposed in July 1912. It provides that the provincial assembly has the power to pass all the laws applying to the province so long as they do not conflict with national legislation. It has also the power to pass provincial budgets ; to discuss the method of collecting (provincial) taxes ; to control the issue of (provincial) loans, and to decide all matters concerning the purchase and

[1] See chapter 3, § 3, pp. 92–3, 97.

management of provincial properties. It is authorized to reply to all questions submitted to it by the Civil Governor, to receive and consider popular petitions, and to deal with all other matters the decision of which rests with the Governor. In case the provincial assembly considers the Governor guilty of 'violation of the law' or 'neglect of duty', it may, by a two-thirds majority of the quorum, denounce him to the President through the Cabinet.

This list of powers and functions is very comprehensive and, at this early stage of parliamentary government, should not be extended. It should indeed be curtailed by the introduction of clauses restricting the initiation of financial bills to the Governor or his delegates, and requiring the concurrence of the Executive Council for bills of impeachment. To ensure harmony between the Governor and the Assembly, it should be provided that the former has free access to the latter and, if necessary, may act as its leader. All the members of the Executive Council, including those nominated by him, should have seats in the Assembly, and the Governor should be allowed to delegate them to speak on his behalf. The Governor's staff should be put in close contact with the different committees of the Assembly and be allowed to appear at their meetings.

The term of the provincial assembly is now fixed at three years. It is a reasonable length of time, but at present the people of China should not be too frequently called upon to vote at elections, as their patience is not yet trained to bear it. Moreover, when the voters have only just begun to be interested in public affairs, opinions will not change very much in three years, and the provincial assembly should in that case be given the opportunity of pursuing a would-be consistent policy for a greater length of time. It is therefore

desirable to extend the period to say five years, but an extension to more than five would give the representatives time to develop their own policy without the check of public opinion. Electors in China at present are not in a position to judge of candidates, and in case incompetent candidates get elected, and their actions prove them unworthy of the mandate, voters should be granted a chance in every five years to change their representatives and to elect more promising candidates.

So far I have examined the system of government for the whole province. Let us now proceed to inquire into the conditions concerning the government of provincial subdivisions.

(3) As already noted, the prefecture has ceased to exist as a distinctive unit of government since the Revolution. The circuit over which the intendant presides should also be abolished, and the provincial governor should be put in direct communication with the magistrate without any intermediate authority. The present position of the intendant in the circuit is anomalous. He is empowered to control the magistrates under him, but in practice he can do hardly anything without the order of the Governor. His duties and powers often overlap with those of the magistrate and, if active, he is likely to come into conflict with him. Moreover, the magistrate should be accorded sufficient freedom to fulfil his administrative duties. He should not be subject to a dual control by the Governor and the intendant. If the province is vast and the Governor finds it difficult to supervise the administration of all its magistrates, he can easily appoint inspectors to tour the different districts.

The magistrate, having been placed under the direct control of the Governor, should be assisted by an elective

council, which does not exist now, though it had existed for two years after the Revolution before it was abolished in 1914. The duty of the Council should be to legislate for the district and to receive and examine all petitions or complaints from the inhabitants. It should be possessed of the power to impeach the magistrate and to denounce him to the Governor, who would then examine and decide the case on its merits. The power of appointing the magistrate should rest with the Governor until the local self-governing institutions are well organized enough to warrant a transfer of it from him to the Council. Like the Governor, the magistrate should be equipped with an Executive Council, the members of which should be partly appointed by himself and partly elected by the Legislative Council. This Executive Council should be authorized to advise the magistrate on any question that is initiated by or referred to the Legislative Council. On certain important measures involving public expenditure, the concurrence of the Executive Council should be made necessary for the execution of proposals brought forward by the Legislative Council. This would restrict the power of the Legislature and enable the magistrate to strengthen his personal authority through the Executive Council.

There should be no difficulty in electing a Legislative Council for the district. The district is small in area and its population has always been interested in its Government —a contrast to the indifference of the Chinese at large to the Government of the whole Empire. The members of the gentry, who have always been influential in the district, should be encouraged to offer themselves for election, and, by virtue of the traditional respect they command from the inhabitants, they would find themselves easily elected. The

authority and influence of the gentry would be increased if they were accorded a legal standing and the decisions taken by them were made binding on the magistrate. It should again be emphasized here that, unlike the conception of gentry in Europe, the word 'gentry' in China does not denote any class distinction. It includes not only scholars but also representatives of many interests, merchants and manufacturers, farmers and labourers, and the representation of them all in a Council would create an ideal assembly.

In the village, where there has never been any official appointed from the Central or provincial Government, the old tradition of government by the gentry should be maintained. Like those in the district, they should be organized into a Council, and formal elections should replace the assumption of office by tacit consent. The elders should offer themselves for election and should be responsible to the villagers for what they do. They should also be made subject to the control of the nearest magistrate so that, in case they misrepresent the people or misgovern the locality, they may be made answerable. On their own part they should not be apprehensive of any undue interference from the magistrate, as the latter, being far from the scene, would be unable to exercise too close a scrutiny. In fact, they would be much aided in their work if the magistrate were required by law to give them subsidies or grants for any enterprise that they undertook, provided that it produced or promised to produce valuable results for the locality they governed.

# PART II

## 5

## *A Historical Sketch of China's Foreign Relations*

The relations of China with other States may be traced back to ancient times. During the Chou dynasty, 1122–255 B.C., the neighbouring countries often sent missions to the Emperor. During the Han dynasty (206 B.C.–220 A.D.) military expeditions led by General Chang Chien were dispatched to countries west of the Bolor mountains. Diplomatic courtesies were often exchanged between the Celestial Court and those of the Arabs, the Persians, and the Parathusians. Commercial relations were also established between China and the Roman Empire; 'the caravans carrying silk traversed the whole latitude of Asia in 243 days from the Chinese Ocean to the sea-coast of Syria'.[1]

The Nestorians penetrated into China as early as the seventh century, but did not establish themselves there. The travels of Marco Polo and the record of his visit vividly impressed Europeans with the greatness of Chinese civilization; and the discovery of the sea-route to the East gave the Portuguese opportunities of promoting their commercial interests in the Celestial Empire. Macao was

[1] Gibbon, *Decline and Fall of the Roman Empire*, chapter 40. In Bury's edition, vol. iv, p. 230.

opened to Portuguese trade in 1550 and tacitly recognized by the Chinese Government as a Portuguese settlement. The Dutch East India Company tried to open commercial relations with the Chinese, but was refused by the Court; the Spaniards, after their occupation of the Philippine Islands, also attempted to enter China, but were prevented by their rivals, the Portuguese.

The first formal treaty that China has concluded with an external Power since the time of Marco Polo is that with Russia in 1689 to delimit the boundaries of the two Empires in Manchuria and Siberia, and to grant their subjects mutual right to travel and to trade. Another treaty was signed in 1727 to limit the number of Russian merchants that might be admitted to Peking in every three years to two hundred, free from the payment of any tax. The missionaries of the Russian Orthodox Church were also granted the privilege of erecting ecclesiastical institutions in Peking.

Towards the end of the eighteenth century, the British East India Company had established commercial relations with the Chinese in Canton, but the Chinese Government was most reluctant to extend the privileges already granted to the Russians to merchants of other nationalities. Russia, through her skilful diplomacy and through her historical connexions with the Mongols and the Manchus, was specially favoured by the Chinese Emperor, who had otherwise maintained a strict seclusion against foreigners. Lord Macartney in 1792 and Lord Amherst in 1803 were dispatched as British Envoys with the object of negotiating a commercial treaty with the Chinese Government, but the arrogance of the Court, its ignorance of the outside world, and its unwillingness to have anything to do with Western Powers (except Russia) made the two missions absolutely fruitless.

The principal merchandise then in exchange between the British and the Chinese was opium, the import of which would, it was thought, lead to a moral and physical deterioration of the Chinese. A strict prohibition was then enforced and opium-smokers were made liable to capital punishment, but this did not deter the English as well as the Chinese merchants from the malpractice of smuggling the poisonous drug. In 1839 a special Commissioner appointed by the Emperor to investigate into the case confiscated the whole stock of opium in Canton and set fire to it. British firms who did not surrender their stock of their own accord were searched and made subject to harsh treatment.

A war then broke out during which the British force occupied many important towns on the coast and on the Yangtze. After two years' struggle, the Chinese Government consented to cede Hong Kong to Great Britain and to open five ports to her trade, apart from the payment of an indemnity which was a condition of the British evacuation of the occupied districts. It is, indeed, doubtful whether the war was justifiable from the moral point of view on the part of Great Britain, as it was waged to impose on China the acceptance of a poisonous drug; but the stupidity, the misunderstanding, and the barrier of language on both sides were largely responsible for hostilities. China had then no notion of the modern conception of equality of States. She treated all other States as 'barbarians' and all diplomatic missions as tribute-bearers. On the other hand, Great Britain had no respect for her policy of isolation and did not think it worth while to approach her with arguments and persuasions.

All these considerations apart, the treaty of 1842 opened a stormy and romantic chapter in the long history of the

Chinese Empire. It was followed by treaties with France and with the United States in 1844, and with Norway and Sweden in 1847, granting them similar commercial rights in the five opened ports.

In 1856, the *Arrow*, a Chinese boat flying the British flag, was captured by the Chinese authorities on the ground that it was the property of Chinese outlaws, who sought foreign protection to evade the Chinese law, and whom the Government had taken steps to suppress. The British Consul, however, considered it a serious insult to the British authority and demanded a release of the captured crew. The Viceroy of Canton yielded, but, on the new demands put forth by Sir Harry Parkes being ignored, the bombardment of Canton by the British Fleet commenced. Next year an Anglo-French Expeditionary Force was dispatched to China and on December 29 captured the city of Canton and imprisoned its Viceroy. He afterwards died in Calcutta, in despair of seeing, as he had hoped, the Queen of England, whom he thought to be the only person of British blood able to understand reason. In 1858, with the Allied Squadron in the Gulf of Pei-chili, the Chinese Government signed treaties with Great Britain and France which authorized the establishment of mutual diplomatic representations; the toleration and protection by Chinese authorities of persons teaching or professing the Christian religion; the appointment of Consuls; and the exercise by them of extra-territorial rights over their compatriots. The most-favoured-nation treatment, which had been granted to France by the treaty of 1844, was now confirmed, and it was also guaranteed by a clause inserted in the treaty with Great Britain. The River Yangtze was opened to British trade by the new treaty, but the most-

favoured-nation clause made it automatically open to the French as well. Seven more ports were opened to trade; British or French subjects were to have the right to enjoy in them the same privileges as they did at the ports already open, 'including the right of residence, of buying or renting houses, of leasing land thereon, and of building churches, hospitals, and cemeteries'.[1]

The treaty was, however, not ratified till an incident had occurred which in the seriousness of its consequence overshadowed the war. The River Pei-ho, which connected Tientsin with Peking, was defended and not opened to any vessel under a flag other than the Chinese. The French and the British Envoys, on their way to the capital to get the treaties ratified, forced its entry and destroyed the river defence. On their repulse by the gunfire from the banks, a second expeditionary force was dispatched from Europe to enforce the ratification of the treaties and to demand an explanation of the incident. After the capture of the Taku forts and the occupation of Tientsin (August 25, 1860) the Anglo-French troops marched into Peking, flying the Union Jack and the Tricolour, requisitioning its inhabitants for military supplies, capturing priceless treasures of jewels and jade, pictures and sculpture, bronze and pottery, and finally setting fire to the Imperial Summer Palace (Yüan Ming Yüan), built by centuries of architectural efforts and enriched by a collection of art thousands of years old. The Emperor had previously fled to Johol and Prince K'ung, assured by the Russian Minister that the safety of his person would be respected, was authorized by an Imperial Ordinance to conduct the peace negotiation.

[1] Art. IX, Treaty with Great Britain, 1858, Hertslet's *China Treaties*, vol. i, p. 23.

A convention was then signed which provided that the treaty of 1858 was to come into operation immediately after the ratifications, which were to be exchanged without delay; that Tientsin was to be opened to foreign trade; that a portion of Kowloon, opposite Hong Kong, was to be ceded to England; and that indemnities were to be paid to France and Great Britain.

During all these times of confusion and humiliation Russia, though she did not participate in the war, had not neglected her scheme of expansion. A treaty had already been signed in 1851 to regulate the trade between Ili and Tarbagatai, and to provide for the appointment of Russian Consuls and Chinese functionaries as agents of the respective Governments. To settle the Manchurian boundary disputes, which had engaged the attention of the two Empires since 1689, a new treaty was signed in 1858 which provided that 'the left shore of the Amour River from the Argoun to the mouth of the Amour was to be Russian; that its right shore downstream up to the River Ussuri was to be Chinese; and that the territories and endroits between the Ussuri and the sea were to be possessed by the two Empires in common'. For the first time China renounced her sovereign rights over the regions north of the Amour, the mastery of which had been in dispute, but which had always been considered a part of the territory inhabited by the Manchus before they came to rule China.

Another treaty signed in the same year (1858) granted the Russians the right to trade in ports opened or to be opened to foreign commerce; the right to most-favoured-nation treatment; and the right to exterritorial jurisdiction. Mutual diplomatic representation was established, and following the French precedent created by the treaty

of 1844, Russian vessels of war were permitted to visit China, to maintain order among Russian subjects, and to support the authority of their consuls. The convention of 1860 fixed the boundary of the two Empires as almost coincident with the courses of the Chilka, the Argun, the Amour, the Ussuri the Belon, and the Hunchun; the territory east of them being made Russian and the west remaining Chinese.

A peaceful settlement of boundaries by a commission in which the Chinese diplomatists were much outwitted by the Russian, caused the Celestial Empire to lose a few thousand square miles of territory east of the Ussuri. China was then weak, and had just recovered from the shock of the war with England and France. She was forced by circumstances to cede territories, the occupation of which Russia considered essential to her policy of obtaining an ice-free port in the Far East through which to control the Pacific.

In 1871, when a revolt broke out in Chinese Turkistan, Russia occupied Kouldja and Ili under the pretext that the occupation was necessary for the maintenance of order on her frontier, but in 1878 the revolt was successfully suppressed by the Chinese Government and Russia was obliged to withdraw her army of occupation. As an indemnity for her military expenditure, China, under the treaty obligation, contracted in the following year to pay Russia 9,000,000 roubles and opened a few towns in Mongolia and in Ili to Russian trade free from any taxation by the Chinese Government. Thus, the Russians not only enjoyed the same privileges of trading by sea as all other treaty States, but were also placed in a special position to trade by land.[1]

The opening of the country to commerce and to missionary

[1] Hoo Chi-tsai, *Les Bases conventionnelles des Relations modernes entre la Chine et la Russie*, pp. 353–433.

propaganda was sure to promote conflict with a people that did not understand the foreigner. In 1870 Margary, a British subject on a diplomatic mission to the interior of Yünnan, was murdered by brigands. To apologize for the occurrence of this unhappy event, the first Chinese Minister was dispatched to the Queen of Great Britain. The Chefoo Convention, signed in 1876, which stipulated the payment of an indemnity by China to Great Britain for the loss of her diplomatic servant, pledged China to open another five ports to foreign trade and to allow the import of opium under a scheduled tariff.

From 1877 to 1885, China was in conflict with France over the destiny of Annam, which had always been tributary to China, but which was treated by France as an independent State. Under the treaty of 1874, Annam practically placed herself under French protection without the consent of the Chinese Government. To their protest lodged through Marquis Tsêng, the Chinese Minister in Paris, the Government of the Quai d'Orsay replied that France did not believe in any historical relations between Annam and China. The lack of foundation for this reply was confessed even by France herself, when she consented to a negotiation for establishing a joint protectorate. The change of government in Paris put an end to this proposal of conciliation, and an expeditionary force was dispatched to occupy Annam by arms. The incident at Langsan between the Chinese and the French troops, causing casualties to both sides, was taken by the French Minister in Peking as a *casus belli*, and the blockade of Formosa and the province of Chekiang was proclaimed. The Chinese Government, realizing its own impotence, had always been reluctant to fight; and when the French fleet bombarded the Arsenal at Foochou, Chinese naval officers

had not yet received orders to prepare for war. Although the Chinese Navy suffered a serious defeat, the land force in Kwangsi gained a victory over the French. The instability of the Government in France precluded her from waging a long war, and the Chinese Government had always been ready to listen to any proposal of compromise. Sir Harry Parkes, the British Minister in Peking, gave his good offices; and the two belligerent Powers agreed to a treaty by which China recognized the French protectorate over Annam and opened two towns in Southern China to French trade. By the skilful diplomacy of Li Hung-chang, the demand for indemnity and for the right to build railways in the interior of China was foiled.

While China was engaged in her controversy with France, Great Britain, with her powerful army and adventurous explorers, occupied the capital of Burma and deposed its King. Hitherto, Burma had always been considered as a vassal state of China and paid her an annual tribute, but, with the impotence of the Suzerain and his inability to protect his tributary states, it was no surprise that it should have surrendered to the conquering Power. By the time China finished her trouble with France, the incorporation of Burma in the Indian Empire had almost become an established fact, and it was only to satisfy diplomatic etiquette that her sanction was asked for the transfer of the sovereign power. The treaty signed in 1894 delimits the Chino-Burmese frontier and restores the two Burmese states, Munglem and Kiang Hung, to their former possessor on the condition that they shall not be ceded to any other Power.

The tottering Empire had lost two of its vast possessions, and time had now come to decide the fate of its suzerainty over Korea. After numerous controversies with Japan over

the right of the respective Governments to dispatch troops to Korea for the purpose of maintaining order, and after the rejection of the Japanese proposal for a joint intervention in the internal administration of the Hermit Kingdom, the Government of China was forced to appeal to arms to settle the disputes. The mobilization of Japan was followed by the military preparation of her prospective foe, and war was formally declared on August 1, 1894.

Viceroy Li Hung-chang, the leading Chinese statesman of his day, had reasons to expect a victory over Japan. Unlike Great Britain and France, Japan was not a military power; and the physique of her troops had always been considered inferior to that of the Chinese. Moreover, since her reverse in the war with France, China had trained an army on European models with the help of European officers. Efforts had been made and money spent to build a fleet; and to all intents and purposes her naval force was stronger than the Japanese. In fact, it was not inferiority in arms that was responsible for the defeat of the Chinese. It was the treachery of their provincial governors, the uncertainty of the Court, and the incompetence of their naval and military commanders that undermined their strength. Throughout the whole campaign, there was not a single commander who showed any power to command. With the notable exception of Admiral Ting, regiments and squadrons all surrendered to the enemy without making any serious attempt to resist. Rifles and guns had been stored in provinces far from the sphere of operations, and no attempt was made to bring them up for action. In several cases it was found that shells were actually filled with sand and pebbles instead of bullets and shrapnel, and it was hopeless for the army or the navy to fight when it was controlled

by officials who had enriched themselves by making profit out of the funds intended for munitions and equipment. Moreover, the army trained by the Viceroy Li Hung-chang was the only one equipped with modern appliances, and all the other provincial troops were still fitted with sandals, bows, and arrows.

With morale so corrupt and organization so imperfect, the Chinese fell an easy victim to the more daring and more audacious Japanese. In the first two naval battles, the whole Chinese fleet was practically destroyed; and the land force was exposed to the serious danger of being outflanked. After the fall of Wei-hai-wei, Li Hung-chang realized the hopelessness of the situation and began to open negotiations for peace. European Powers and the United States were interested in the restoration of peace in the Far East, and both belligerents were approached with the object of bringing about a cessation of hostilities. Li Hung-chang was sent to Japan to conduct the negotiations with Marquis Ito; and on April 17, 1895, the treaty of Shimonoseki was signed, by which the independence of Korea was recognized by China and the Liaotung Peninsula and Formosa were ceded to Japan. In the same year, a treaty of commerce was concluded which granted Japanese subjects in China the most-favoured-nation treatment and exterritorial jurisdiction.

The cession of the Liaotung Peninsula placed Peking under the direct menace of the Japanese and would put an end to the Russian ambition of obtaining an ice-free port on the Pacific. Li Hung-chang, forced by circumstances to yield to the Japanese, turned to the Russian Government for a helping hand. No one understood Russian ambition better than Li Hung-chang, and it was clear that Russia

would not render any service to China without a substantial compensation. But China was defeated, and the danger to her from Japan was more imminent than that from any other Power. Moreover, Russia was no Oriental Power, and her expansion would probably be limited by her capacity to govern an Asiatic race, whereas Japan, having a written language almost the same as the Chinese, and inheriting the same traditions, would prove a much more formidable and uncontrollable foe. Secret envoys were sent to Europe and telegrams exchanged by Li Hung-chang with various European capitals to ask them to support his policy of utilizing the influence of one country against another.

Russia, in alliance with France and with the co-operation of Germany, demanded from Japan a renunciation of the cession of the Liaotung Peninsula on the ground that the cession would destroy the balance of power in North China. Japan, now exhausted by the war and nearly bankrupt pending the payment of the indemnity by her defeated foe, was not in a position to defy Russia and two other European Powers. Moreover, the Russian garrison at Vladivostock had already been reinforced by fresh troops from Siberia and was fully prepared to fight the Japanese. The Japanese statesmen were wise enough to grasp the situation and speedily consented to restore Liaotung to China.

To extend further help to China, Nicholas II issued a decree which guaranteed a loan then issued in Paris and St. Petersburg to provide China with the means to pay her indemnity to Japan. The rumour was current that Count Cassini, the Russian Minister in Peking, had concluded a secret treaty of alliance with Li Hung-chang; but Li was out of office after the settlement with Japan, and no other member of the Chinese Government had the courage or

foresight to sign so momentous an instrument. At the suggestion of Count Cassini, Li Hung-chang was dispatched in 1896 as a special Ambassador to convey the congratulations of the Emperor of China to the Tsar on his coronation, and to express to him his gratitude for his intervention in the preceding year. In Moscow and St. Petersburg Li Hung-chang was received with royal honours, and after a few interviews with the Tsar and with Witte, then Russian Minister of Finance, he signed a secret treaty which provided that in the event of a Japanese attack on the Russian Far Eastern possessions or on Chinese or Korean territory, the two contracting Powers would mobilize all their military and naval resources for mutual protection; and that China would grant Russia the right to build a railway through Manchuria to connect the Trans-Siberian line with Vladivostock, in order to facilitate her military transport in time of war. Next year, a convention was signed by China with the newly-formed Russo-Asiatic Bank to authorize it to issue loans for the Chinese Government, to undertake Government enterprise, and to build railways in the interior of China. The railway syndicate to be formed was to have the right to open mines and to establish police in regions near the railway line.

It is evident that considerable advantages accrued to Russia from her alliance with China; and that mutual protection was purchased by China at the expense of her sovereign rights in Manchuria. Subsequent events have obliterated the importance of the alliance and have put an end to it before the stipulated time of its expiration, but the fact that it was concluded makes a new epoch in the new chapter of China's history which was opened with the ratification of the treaty of 1842 with Great Britain.

For the first time in the four thousand years of a wonderful and sensational history, China discarded the idea that she was the only civilized country on the earth. As a modern State she began to contract alliances with other Powers and entered into the entanglements of modern diplomacy, which had been unknown to her statesmen and alien to her traditions. For good or evil, the great wall which separated her from the rest of the world had now been broken down, not only by foreign Powers, but also by her own Government.

Up to this time, Germany had not acquired a place in the sun in the Far East, but her ambitions were none the less apparent. Although it was provided in the Franco-Chinese treaty of 1858 that France was to assume protection over the Roman Catholics, the Iron Chancellor, Prince Bismarck, instructed the German Catholic Missions in 1885 to put themselves under the direct protection of the German Government. After his fall in 1890 the policy of expansion in China was pursued by the Emperor. For years he had planned for the occupation of a suitable base in the China Sea in accordance with his scheme of naval construction, and having been informed by the German Asiatic Squadron that the Kiaochou Bay was an ideal harbour and could be easily converted into the finest port in the Far East, he seized the opportunity of landing troops at that place in 1897 on the excuse that China should be punished for the murder of two German missioners in the province of Shantung 'in circumstances beyond the control of the local authorities'. To show the innocence of the Chinese garrison officials, it should be pointed out that they offered hearty welcome and charming hospitality to the German blue-jackets, because they thought they only came to the shore

for the purpose of sight-seeing and recreation. In the following year, under the unscrupulous diplomacy of Prince Henry of Prussia, China was constrained to grant Germany the lease for ninety-nine years of Kiaochou Bay, including both sides of its entrance and several adjacent islands, the total area amounting to 193 square miles. It was alleged that Russia instigated Germany to take this unreasonable step, because it would give her an excuse to occupy Port Arthur and Ta-lien-wan (Dalny).

It is beyond the scope of the present work to prove that the allegation is true, but it is evident that it is not devoid of foundation when it is remembered that, in the same year, Russia demanded from China a lease of Port Arthur and Dalny for twenty-five years on the ground that her interests in Manchuria must be protected against German penetration. China was then powerless and found herself at the mercy of the Western States. She had to agree to all the demands, and even the disinterested proposal of Great Britain that the leased territory should not be made a naval base but opened as a commercial port, was rejected by Russia on the ground that she should not be deprived of a concession similar to that acquired by the German Empire. The treaty which legalized the lease conceded to Russia the right to build a railway line from Harbin to Port Arthur, as a branch of the Chinese Eastern Railway already conceded under the secret treaty of alliance. The Russian Far Eastern Province was then constituted with Port Arthur as its capital and administered as an integral part of the Empire of the Tsar.

Faithful to the principle of the balance of power in the Far East, France and Great Britain pressed China for further concessions. After the ratification of the Russo-Chinese secret treaty, France obtained some railway and mining

rights in Southern China and Great Britain the assurance that the Yangtze valley would not be alienated to a third Power. With the firm establishment of Russia and Germany on the main Asiatic continent, France demanded the lease of Kwang-chou-wan for ninety-nine years, and England that of Wei-hai-wei for as long as Russia was in Port Arthur. To these demands China was forced to agree as in the case of the other two leases, and she further gave a pledge to France that she would not alienate the three southern provinces, Kwangtung, Kwangsi, and Yünnan to any other Power. To balance her interest in the South against France, Great Britain was also granted the lease of Kowloon for ninety-nine years, a portion of which, it will be remembered, had already been ceded to her by the treaty of 1860.

It was then generally believed that the time was ripe for the partition of China, and that the lease of territory and the delimitation of spheres of interest were only preliminary steps to the break-up of an Empire that had developed the world's most ancient and most original civilization, but that had failed to adapt itself to changes of environment produced by modern scientific invention. Like a giant, it had now been stabbed and helplessly laid on the ground pending spoliation at the hands of those better equipped with arms and scientific instruments. There was a twofold tragedy in the situation: firstly, the past achievements of China availed nothing to uphold her in this time of trouble; and secondly, there was no one to help her along the paths by which she might consolidate and strengthen herself.

The tragedy was, however, not yet. President McKinley of the United States proclaimed in 1899 an 'open door' policy for China, and requested all European Powers and

Japan to realize his hope that they would not interfere with the interests of each other ; and that the tariff in the leased territories and spheres of interest would not be made higher than that adopted by China for the whole country.

This secured an equal opportunity for the commerce of all nations and minimized the chance of any conflict between different Great Powers which might lead to an extension of their territory at the expense of China. Great Britain, to her credit, first endorsed this policy, and other Powers followed her example.

Next year, however, China witnessed another upheaval, which saved her from the long-expected disruption only by the width of a hair. The foreign aggressions reacted on the Chinese and aroused their feelings of revenge. A secret society under the title of 'Harmonious and Peaceful Fists' organized an agitation with the object of killing all the foreigners in China so as to save the country from further humiliation and territorial encroachment. Many ruling princes and viceroys, arrogant and ignorant, welcomed the idea and patronized the movement. Orders were issued from the capital to protect the Boxers, and many Imperial troops joined their cause. In June 1900 the movement had spread to Peking and the ringleaders had converted many Manchu noblemen. They destroyed European churches, firms, and residential buildings, and cut off the railway line between Peking and the sea-coast. Finally, they murdered the German Minister and the Chancellor of the Japanese Legation and made elaborate plans to besiege all the Legations.

The foreign warships in the Gulf of Pei-chili landed troops in Taku, which fought their way to Peking. The landing was, however, construed by the ruling Princes as

a *casus belli* by the treaty States, and war was actually declared on them. The province of Chi-li became the battlefield, and the massacre of foreigners in general and missionaries in particular was carried out by the Boxers in the North-Western provinces. After the capture of the Taku forts by the mariners, the British and the Japanese decided on a punitive expedition, and Russia, France, Germany, and the United States also dispatched contingents to relieve their Legations. Within two months from their arrival at Taku, they captured Tientsin and, in August 1901, entered the capital and occupied the Imperial Palaces.

The Emperor together with the Empress Dowager and many Princes had fled to Si-an-fu and, as a refugee, he communicated with the sovereigns of the States concerned with a view to expiating the offence committed by his Government. He expressed his deep regret to the Emperors of Germany and Japan for the murder of their diplomatic representatives, and hoped to console the spirits of the dead by offering them the most elaborate sacrifice permitted by his religion. He degraded the culpable Princes and viceroys and issued instructions to punish officials of other ranks. At that time it was firmly believed that a change of dynasty or even of the form of government would be more promotive of order and progress in China than a restoration of the decadent Manchus.

Germany had declared herself indifferent to the future form or personnel of the Chinese Government provided it was capable of affording the foreigners on its soil some reasonable protection. England, France, Japan, and the United States, though they did not make any official declaration on this point, were inclined to adopt the same attitude as Germany. Of all the Powers interested, Russia

alone stood for Manchu restoration. It was finally agreed that peace must be made as soon as possible and a Government set up with which the Powers could negotiate. Any attempt to change the dynasty or to set up a Republic would simply intensify the chaos and prolong the war, and such a prolongation might produce conflicts between the Powers themselves.

In December 1900, when the Allies had agreed among themselves on the terms to be imposed upon China, they formally notified the Emperor that they would negotiate with his plenipotentiaries. After some deliberations with Prince Ch'ing and Li Hung-chang on the punishment of culprits and on the amount of indemnity to be paid, a protocol was signed on September 7, 1901, according to which China was to dispatch special envoys to Germany and to Japan to apologize for the assassination of Baron von Kettler and Mr. Sugiyama; to pay an indemnity of 450,000,000 taels; to destroy for ever the Taku forts; to allow the Powers to station troops in the districts between Peking and the sea-coast and to delimit a Legation quarter in Peking, to which the Chinese would have no access, and in which they might maintain their own guards.

So ended the fanatic hope of killing all the foreigners!

During the progress of the Boxer rebellion, collisions took place between the Chinese and the Russian troops in Manchuria, and the ignorant Chinese commanders actually led troops to destroy Russian churches, railways, and other properties. A relief contingent was dispatched from Siberia and, after a few encounters with the Chinese, occupied the whole province of Manchuria. Russia had accepted the principle of the Anglo-German agreement signed during the rebellion, according to which no Power

would 'make use of the present complication to obtain any territorial advantages in the Chinese dominions', but according to her interpretation, it was only applicable to China proper and not to Manchuria. A secret treaty was believed to be under discussion between the Russian Foreign Office and the Chinese Minister in St. Petersburg to give Russia the sole right to train an army and navy for Northern China; to build a railway from Manchuria to the Great Wall in the direction of Peking; to limit, at her discretion, the number of Chinese troops that might be stationed in Manchuria; and to prevent China from granting to foreigners any railway or mining concessions in her frontier provinces, including Mongolia and Tibet, without her permission.

The treaty, though denied by Russia and abrogated after the restoration of peace in Peking, alarmed Japan, whose interest in Korea would be threatened by a Russian control in Manchuria. Moreover, the Russian expansion in the East would come into conflict with British interests and might eventually threaten British rule in India. England had always in fact been on cordial terms with Japan ever since the Chino-Japanese war, whereas Germany seemed to have gone to the side of Russia. An Anglo-Japanese treaty was signed in London in January 1902 to provide that if either Great Britain or Japan, in defence of their respective interests in China and Korea, should become involved in war with another Power, the other High Contracting Party would maintain a strict neutrality, and use its efforts to prevent other Powers from joining in hostilities against its ally; and that 'if, in the above event, any other Power or Powers join in hostilities against that ally, the other High Contracting Party will come to its assistance,

and will conduct the war in common and make peace in mutual agreement with it '.

As a counter-move to this Anglo-Japanese Alliance, Russia concluded an agreement with France in the following terms:

' Les deux Gouvernements estiment que le respect de ces principes de la Convention Anglo-Japonaise est en même temps une garantie pour leurs intérêts spéciaux en Extrême-Orient. Toutefois obligés d'envisager, eux aussi, le cas où, soit l'action agressive de tierces Puissances, soit de nouveaux troubles en Chine, mettant en question l'intégrité et le libre développement de cette Puissance, deviendraient une menace pour leurs propres intérêts, les deux Gouvernements alliés se réservent d'aviser éventuellement aux moyens d'en assurer la sauvegarde.'

After the conclusion of this agreement, Russia consented to withdraw her troops from Manchuria, in three successive instalments. The first withdrawal was effected, but when the time came for the second, Russia demanded from China that a Russo-Chinese Commission should be constituted to take charge of the political, military, financial, and judicial administration in Manchuria; that the Russo-Asiatic Bank should be entrusted with the administration of its customs; and that she should share with China the responsibility of governing Tibet. All these demands caused indignation in Japan, who considered it fatal to her position in Korea and to her expansion on the mainland if Russia were allowed to establish herself in Northern China. Moreover, Japan at the beginning of the twentieth century was full of ambition and willing to accept any challenge from Russia. Her power in arms was strong enough to meet any Western State on equal terms, and skilful diplomacy had secured her many sympathetic allies. She had reasons to expect that in the event of war

Great Britain would render her moral support, and that victory would increase her prestige in the eyes of European nations and give her the right to claim hegemony over Eastern Asia.

Negotiations were going on between the Governments of Tokyo and St. Petersburg. Although there was some inclination on the part of the Russian Government to recognize the special position of Japan in Korea, it absolutely refused to discuss any plan which would restrict its own movements in Manchuria. Months passed and envoys were exchanged, but they came to no satisfactory conclusion. On February 8, 1904, when the Embassies of the two Powers had been withdrawn, war was declared. The question now arose as to the position of China. It was thought and agreed that the best course for her to pursue was to maintain neutrality, but her territory in Manchuria had already been occupied by the troops of one of the belligerents. It would be impossible to enforce neutrality then, and yet it was out of the question that she should be dragged into the war on that account. On the suggestion of the United States Government it was agreed that that part of Manchuria which lay east of the Liao-ho River should be delimited as a belligerent zone, but that military actions must not be extended to neutral districts. As soon as this arrangement was accepted by the three parties concerned, Japan signed a treaty with Korea which practically converted the latter into a Japanese protectorate.

Japan had the initiative and took Russia by surprise. After a successful landing in, and passage through, Korea, her troops defeated the Russians in the battle of the Yalu. Her navy first blockaded the ingress to Port Arthur and

then the coast of Kingchou. Having swept the Russian fleet out of the Eastern Sea, Japan beat her enemy on land. After the victories of Liaoyang and Sha-ho, she captured Port Arthur and destroyed the Russian defence. The Russian Navy, now reinforced by the Black Sea fleet, fought another battle with the result that many of its ships were sunk or captured. Russia had, however, not been daunted by her reverses and was fully prepared to make further efforts to turn the current of events. So far as man-power and resources were concerned, she was far superior to Japan; but owing to the distance from the scene and the lack of rolling-stock on the Trans-Siberian line, she was much hampered in her military transport. At this critical time, both belligerents thought it unwise to persist in the war, and, by the good offices of President Roosevelt, they agreed to cease hostilities. In July 1905 the Russian and the Japanese plenipotentiaries who met in Portsmouth (U.S.A.) signed a Treaty of Peace, by which Russia was pledged to recognize the special military, political, and economic interests of Japan in Korea. Russia also agreed to transfer to her enemy the lease of Port Arthur and Dalny and the railway line from Port Arthur to Changchum, together with the rights, privileges, and properties within the railway zone; and the transfer was duly sanctioned by the Chinese Government in a treaty signed with Japan on December 22, 1905. The line from Antung to Mukden, built by Japan during the war for military transport, was retained by her. Both Russia and Japan agreed to evacuate Manchuria and restore it to China, but they retained their rights to station armed guards on the railway lines. In return, China opened several ports in Manchuria to foreign trade.

During the war a new Anglo-Japanese Alliance was concluded, the preamble of which stipulates for the following conditions :

(*a*) the consolidation and maintenance of general peace in the regions of Eastern Asia and of India ;

(*b*) the preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China ;

(*c*) the maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions.

The point that makes this alliance differ from that concluded in 1902 is that the former is applicable to India, and the latter only to China and Korea. The new alliance also requires either Power to 'come at once to the assistance of its ally', in case by reason of unprovoked attack or aggressive action it should be involved in war in defence of its territorial rights or special interests mentioned in the preamble, whereas the old alliance only required active assistance in the event of its being at war with more than one Power. The new alliance does not only recognize Japan's special interests in Korea, but also her right to 'take such measures of guidance, control, and protection as may be deemed proper and necessary to safeguard her paramount political, military, and economic interests'.[1]

[1] This alliance was valid for ten years from 1905, but it has been replaced by a new alliance in 1911, which is substantially similar and for the same duration, with the exception of the clause relating to Korea, which had been annexed by Japan in 1910, and the clause relating to a Japanese recognition of England's right to take such measures in the proximity of the Indian frontier as she may find necessary for safeguarding her Indian possessions.

France, in order to safeguard her possession in Indo-China, signed in 1907 an agreement with Japan to the effect that

'Les Gouvernements de la France et du Japon, d'accord pour respecter l'indépendance et l'intégrité de la Chine, ainsi que le principe de l'égalité de traitement dans ce pays pour le commerce et les ressortissants de toutes les nations, et ayant un intérêt spécial à voir l'ordre et un état de choses pacifique garantis, notamment dans les régions de l'Empire chinois voisines des territoires où ils ont des droits de souveraineté, de protection, ou d'occupation, s'engagent à s'appuyer mutuellement pour assurer la paix et la sécurité dans ces régions, en vue du maintien de la situation respective et des droits territoriaux des deux Parties contractantes sur le continent asiatique.'

In the same year a Russo-Japanese agreement was signed in the following terms :

'The Government of His Majesty the Tsar of All the Russias and the Government of His Majesty the Emperor of Japan, animated by a desire to strengthen the peaceful, friendly, and neighbourly relations which have happily been restored between Russia and Japan, and to remove the possibility of future misunderstandings between the two Empires, have entered into the following agreement.

'Article 1. Each of the two high contracting parties undertakes to respect the present territorial integrity of the other, as well as all rights, accruing to one or the other of the high contracting parties from existing treaties, agreements, or conventions now in force between the high contracting parties and China, copies of which have been exchanged by the contracting powers, so far as these rights are not incompatible with the principle of equal opportunity enunciated in the treaty signed on September 5, 1905, and in the special conventions concluded between Japan and Russia.

'Article 2. Both high contracting parties recognize the

independent and territorial integrity of the Empire of China, as well as the principle of equal opportunity in commerce and industry for all nations in the said Empire. They also pledge themselves to uphold the maintenance of the status quo and the respect of this principle with all peaceful means at their disposal.'

In 1908 the following note was addressed by Mr. Takahira, the Japanese Ambassador at Washington, to the United States Government, and confirmed by Secretary Root:

'Sir,—The exchange of views between us which has taken place at the several interviews which I have recently had the honour of holding with you has shown that, Japan and the United States of America holding important outlying insular possessions in the region of the Pacific Ocean, the governments of the two countries are animated by a common aim, policy, and intention in that region.

'Believing that a frank avowal of that aim, policy, and intention would not only tend to strengthen the relations of friendship and good neighbourhood which have immortally existed between Japan and the United States, but would materially contribute to the preservation of the general peace, the Imperial Government have authorized me to present to you an outline of their understanding of that common aim, policy, and intention.

'1. It is the wish of the two Governments to encourage a free and peaceful development of their commerce on the Pacific Ocean.

'2. The policy of both Governments, uninfluenced by any aggressive tendencies, is directed to the maintenance of the existing status quo in the region above mentioned and to the defence of the principle of equal opportunity for commerce and industry of all nations in China.

'3. They are accordingly firmly resolved reciprocally to respect the territorial possessions belonging to each other in the said region.

'4. They are also determined to preserve the common interest of all Powers in China by supporting by all pacific means at their disposal the independence and integrity of China and the principle of equal opportunity for the commerce and industry of all nations in that Empire.

'5. Should any event occur threatening the status quo as above described or the principle of equal opportunity as above defined it remains for the two Governments to communicate with each other in order to arrive at an understanding as to what measures they may consider it useful to take.

'If the foregoing outline accords with the view of the Government of the United States, I shall be gratified to receive your confirmation.

'I take this opportunity, etc.,

'TAKAHIRA.'

After the establishment of a Governor-Generalship in Liaotung and the opening of a South Manchurian Syndicate in 1906, and after the extortion of many more economic concessions from China, Japan signed a new alliance with Russia in 1910 in the following terms:

'The Imperial Governments of Russia and Japan, being sincerely attached to the principles established by the Convention concluded between them on July 30, 1907, and being desirous of developing the effects of this Convention with a view to the consolidation of peace in the Far East, have agreed to complete the said arrangement in the following manner:

'1. With the purpose of facilitating communications and developing the commerce of nations, the two High Contracting Parties agree to extend to one another their friendly co-operation with a view to the improvement of their respective railway lines in Manchuria and the perfecting of the connecting lines, and to abstain from all competition prejudicial to the realization of this object.

'2. Each of the High Contracting Parties undertakes to

maintain and respect the status quo in Manchuria resulting from all the treaties, conventions, and other arrangements concluded up to this date, either between Russia and Japan or between those two Powers and China. Copies of the said arrangements have been exchanged between Russia and Japan.

'3. In the event of anything arising of a nature to threaten the status quo mentioned above, the two High Contracting Parties shall enter each time into communication with each other with a view to coming to an understanding as to the measures they may think fit, if necessary, to take for the maintenance of the said status quo.'

This Alliance put an end to any attempt to neutralize the Manchurian Railways, as it was proposed by America in 1909, and compelled the two Powers concerned to respect and to defend their mutual interests, aspirations, and obligations. The hope of a Muscovite Empire on the Asiatic continent was no longer cherished, and Russia diverted her colonial activities to other directions. In Manchuria she contented herself with the acquisition of some economic privileges, and with the consolidation of her interests in Harbin and in other towns along the Chinese Eastern Railway. It was now Japan who was in ascendancy in North-Eastern China, and her influence penetrated into every corner of the Celestial Empire. Korea was annexed in 1911 and many railways and mining concessions were granted to Japan by the Chinese Government.

Next in importance to the Manchurian problem is that of Tibet. In 1904 the British Government dispatched a military expedition to Lassa, and a treaty was signed between the Lama and Colonel Sir Francis Younghusband, which provides (1) 'that no portion of the Tibetan territory shall be ceded, sold, leased, or mortgaged to any Power without

the previous consent of the British Government ;' (2) 'that no representative of any other country may be admitted ;' (3) 'that no concession for railways, telegraphs, mining or other rights shall be granted to another Power ;' and (4) 'that no Tibetan revenue shall be pledged or assigned to any other government.' Confronted with this new situation, China, in exercising her suzerain power over Tibet, agreed with Great Britain that this treaty should be confirmed, and in return for her obligation not to permit any other Power to interfere with the internal administration of Tibet, she obtained from Great Britain a pledge not to annex Tibet or encroach on its internal autonomy.

In 1908 another convention was signed with Great Britain, by which it was agreed that from 1909 onwards the annual import of Indian opium should be reduced by one-tenth of the total amount imported in the preceding year and should be stopped altogether at the end of ten years. In 1911 it was further agreed that from the 1st day of January 1911, 'China shall diminish annually for seven years the production of opium in China in the same proportion as the annual export from India is diminished', and that 'Indian opium shall not be conveyed into any province in China which can establish by clear evidence that it has effectively suppressed the cultivation and import of native opium'. The stipulations of these conventions have now been fully carried into effect and the opium traffic as well as opium-smoking has practically come to an end.

After the recognition of the Republic by the foreign Powers in 1913, China proceeded to settle the Mongolian question with Russia. Before 1911, Russia had obtained the right of free movement and settlement in Outer

Mongolia, but on November 3, 1912, she signed an agreement with Mongolia, to the effect that Russia would assist her to maintain the autonomous régime which she had established, as also the right to maintain her national army, and to admit neither the presence of Chinese troops on her territory, nor the colonization of her land by the Chinese. In return, Russian subjects were to enjoy the right to free residence and movement, to exemption from import and export dues, and to many commercial, industrial, and agricultural preferences and advantages. At the instigation of the Russian Envoy, Mongolia declared her independence of the Republican Government. Negotiations were opened between Peking and St. Petersburg, and it was mutually agreed that Russia should recognize the suzerainty of China over Outer Mongolia and that China should recognize its internal autonomy. A Conference held in Kiachta in 1915, in which Mongolia, China, and Russia took part, resulted in the conclusion of a treaty confirming the Russo-Chinese agreement and recognizing 'the exclusive right of the Autonomous Outer Mongolia to attend to all the affairs of its internal administration, and to conclude with foreign Powers international treaties and agreements respecting all questions of a commercial and industrial nature concerning Autonomous Mongolia', but denying her the right to conclude international treaties with foreign Powers respecting political and territorial questions.

The problems that have arisen since the present war will not be anticipated here, as they will be dealt with in another chapter. To complete my historical survey of China's foreign relations, it should be mentioned that apart from the six Great Powers, Great Britain, France, Russia, Germany, Japan, and the United States, the principal

events of whose relations with China have been discussed, all the European Powers have treaty relations with China, except Turkey and the Balkan States. In Central America, Mexico is the only treaty State, while in South America, Brazil, Chili, and Peru have treaty relations with the Chinese. Curiously, she has not yet opened any diplomatic relations or had any treaty with Siam or Persia. The increase of travel and the extension of trade will no doubt compel China to establish diplomatic and consular agencies in all civilized states, and it is hoped that the future, unlike the past, will be glorified by peaceful development and intellectual co-operation between China and other States rather than by struggles for territorial and economic concessions.

## 6

## *Exterritoriality ; Concessions and Settlements*

In the treaties between China and Russia signed in 1689, 1727, and 1768, it was agreed that subjects of either State who should break the frontier bounds or be guilty of brigandage should be handed over to their respective officials for punishment. In this stipulation the principle of exterritoriality is involved, but the right of exterritoriality was then enjoyed by both parties—by Russia in China, as well as by China in Russia. Moreover, the treaties were only intended to affect the subjects of the two Empires on the frontier and not those in the interior.

In the few decades before the Opium War, foreign merchants and missionaries in China were nominally under her law, but the Chinese authorities, who were contemptuous of aliens, thought it derogatory from their dignity, if they were to interfere with disputes between 'outside barbarians'. They had no notion that the sovereign rights of a State included the right of jurisdiction over foreigners within its dominion ; and they deliberately refused to grant them any judicial redress. In consequence, the right of exterritoriality was exercised by foreign Powers on sufferance. On a few occasions, when aliens committed offences against the safety of the State or the fundamental law of China, they were punished by Chinese Courts. The summary jurisdiction, the corporal punishment, and the filthy prison, which had been characteristic of the Chinese

judicial administration, were repugnant to Europeans and, when applied to them, provoked complaints from their Governments. Moreover, in the absence of a civil, commercial, or industrial code and with the criminal code harsh and imperfect, it was difficult to expect foreigners to believe in the infallibility of Chinese judges and submit themselves to the Chinese Law.

In the General Regulations for the British Trade in the five ports opened after the Opium War, it was stated that provisions would be made for the punishment of English and Chinese criminals according to the laws of their respective countries and by their respective officials, but in the treaty with France of 1844, we find the following clauses which expressly grant her exterritorial jurisdiction :

'Les Français qui se trouvent dans les cinq ports dépendront également, pour toutes les difficultés ou les contestations qui pourraient s'élever entre eux, de la juridiction française. En cas de différends survenus entre Français et étrangers il est bien stipulé que l'autorité chinoise n'aura à s'en mêler d'aucune manière.'

These articles, with some verbal modifications of no significance, have been reproduced in the treaties with all other States, and have now become a general rule governing litigation between foreigners.

To fulfil its legal obligations, a treaty State establishes a consular Court in every one of its Consular districts in China. It is presided over either by the Consul himself or by some other person or persons duly authorized to exercise judicial functions. Its jurisdiction extends, first, to cases in which both parties are compatriots of the Consul, and, secondly, to cases in which one party is his countryman, and the other a citizen of another treaty State, provided

the treaty arrangements between these two States permit the case to come under the jurisdiction of this court. In neither of these two kinds of law-suits have Chinese authorities any power to intervene.

Great Britain, in addition to her Consular Courts in the various treaty ports, has established a Supreme Court in Shanghai which is not only a Consular Court for the district (of Shanghai), 'possessing in all matters, civil or criminal, an original jurisdiction, concurrent with the jurisdiction of the several Consular Courts (provincial Courts in the terminology of the Order in Council of October 24, 1904)', but may also 'of its own motion, or upon the report of a Consular Court, or on the application of any party concerned, require any case, civil or criminal, pending in any Provincial Court, to be transferred to, or tried in, the Supreme Court, or may direct in what court and in what mode, any such case shall be tried'. The United States Supreme Court in Shanghai has almost the same power.

The appeal cases from the British Supreme Court are tried in the Privy Council in London, and those from the United States Supreme Court in the Federal Court of California. Other States have no Courts in China except the Consular, and appeal cases or cases outside their jurisdiction must go directly to the Higher Courts in these respective States—to Saigon in the case of France, and to Leipzig in the case of Germany.

In mixed civil cases, in which one party is Chinese, the following rule prevails :

'A British (or any other) subject, having reason to complain of a Chinese, must proceed to the Consulate and state his grievance. The Consul will inquire into the merits of the case and do his utmost to arrange it amicably. In like

manner, if a Chinese has reason to complain of a British subject, the Consul shall no less listen to his complaint and endeavour to settle it in a friendly manner. If disputes take place of such a nature that the Consul cannot arrange them amicably, then he shall request the assistance of the Chinese authorities, that they may together examine into the merits of the case, and decide it equitably.'

A mixed criminal case is governed by the two following articles in the Treaty with the United States of 1844:

(1) 'Subjects of China (in China), guilty of any criminal act towards citizens of the United States, shall be punished by the Chinese authorities according to the laws of China;

(2) 'and citizens of the United States (in China), either on shore or in any merchant vessel, who may insult, trouble, or wound the persons, or injure the property, of Chinese, or commit any improper act in China, shall be punished by the Consul or other public functionary thereto authorised, according to the laws of the United States.'

In practice, in criminal as well as in civil cases, an alien plaintiff who has a case against the Chinese never goes to a Chinese Court in the first instance. The usual procedure followed by him is to go to his Consulate and state his case to the Consul, who will then approach the local Chinese authority for a judicial investigation. An officer of the plaintiff's nationality may attend all cases to watch the proceedings in the interests of justice, and 'if he be dissatisfied with the proceedings, it will be in his power to protest against them in detail'.

In Shanghai, where a large number of Chinese inhabit the International and the French Settlements, and where law-suits are numerous owing to its commercial importance, a novel experiment has been tried by establishing two mixed

Courts, one in each settlement, to try civil and criminal cases in which the defendant is Chinese. They are each presided over by a judge appointed by the Chinese Government, who has the power to decide all cases under his jurisdiction. He is authorized to 'examine Chinese subjects judicially, to detain them in custody, and to punish them by putting them in the cage, by flogging, and by other minor punishments', but at the trial of a case, he sits with the Consul (or his deputy) of the foreigner involved in it, and the case shall be decided 'equitably and impartially and in accordance with treaties'. If the foreigner has no Consul in Shanghai, or if his country has no treaty relations with China, the case will be tried by the Chinese judge sitting with a foreign assessor, and the decisions taken will be submitted to the higher local Chinese authority (Taotai) for further consideration. Over foreigners charged with some criminal offence but not represented by a Consul, the mixed Courts exercise original jurisdiction, and the findings should be 'submitted for the Taotai's approval, who will consult with some Treaty Power Consul on the subject'. Applications for appeal against the decisions of the mixed Courts shall also be submitted to the Taotai or the Consul interested in the case.

In law-suits between the Chinese themselves resident within the settlements, the mixed courts exercise full jurisdiction. But 'in cases where Chinese subjects are charged with grave offences punishable by death and the various degrees of banishment, it will be still for the District Magistrate of Shanghai to take action'. In neither of these two kinds of cases have foreign Consuls any power to intervene. Moreover, 'a Chinese criminal escaping to the foreign settlements can be summarily arrested by the

Chinese Judge of the Mixed Court without warrant from the District Magistrate or aid from the municipal police'.[1]

So far I have examined the system of exterritoriality, as it prevails in China. Let us now discuss its limits and drawbacks. First, it should be pointed out that although the rules of International Law which, as already noted, were unknown to the Chinese officials of a century ago, require the Sovereign of a fully independent State to exercise jurisdiction over all persons (and their property) within his dominion, irrespective of their nationality, the grant of exterritoriality does not involve any concession of sovereignty. By this grant, he delegates his supreme rights over persons not owing permanent allegiance to him to another State, and the delegation is limited by the extent to which it is effected. In fact it can hardly be said that the right of jurisdiction in another State is inherent in the Sovereign who exercises it. It is exercised by him on behalf of the territorial sovereign, and is a compromise between States of different civilization that observe laws and customs differing in fundamental principles.

That the delegation is limited may be illustrated by a few articles in the Chinese Customs Regulations. There it is

[1] A mixed Court on the pattern of those in Shanghai has been established at Kulangsham (Amoy), and in 1911 Russia demanded from China an establishment of mixed courts for cases between Chinese and Russians, but the demand, so far, has not been granted. Throughout the rest of China, the general rule prevails that mixed cases are tried by the court of the defendants; and that subjects of non-treaty States are subject to the full jurisdiction of the Chinese Government. The only exception to this rule is that of the Koreans who (Japanese subjects), 'residing on agricultural lands within the mixed residence district on the Chinese side of the Sino-Korean boundary', are under the jurisdiction of China because of her historical connexions with the Koreans.

provided that a fine shall be imposed by the Chinese Government on the master, supercargo, or consignee of foreign nationality, 'if he proceeds to discharge the cargo without a permit from the Chinese customs' and that 'the goods so discharged shall be subject to confiscation by the Chinese Government' without waiting for the sanction of any foreign Consul. Foreign vessels entering a port not opened to trade, or engaged in smuggling or in clandestine coastal trade, are also subject to confiscation by the Chinese Government. For the protection of the revenue, and for the maintenance of peace and order, China has an indisputable right to enact laws for all persons within her dominion, provided the enactment does not contravene any treaty stipulation. In the opinion of Hall, 'if there is any doubt as to whether certain powers have or have not been conferred by the territorial sovereign, the doubt must be solved in his favour'.[1]

Exterritoriality is, however, inconvenient to the Treaty States because it imposes too heavy a burden on their diplomatic and consular agents. In Peking, the foreign Ministers have not only to perform duties as representatives accredited by their Governments to China, but also to promulgate and enforce laws to govern their nationals in the country. They examine, judge, and decide cases for which Consuls or Consular Courts have failed to find a satisfactory solution, and they are often called upon to issue instructions or to communicate with the Chinese Government on questions which would probably never occur in any other country.[2] Throughout China, the

[1] Hall, *Foreign Jurisdiction.*

[2] Such as conflict of jurisdiction between the Consular Courts of various Powers.

foreign Consuls are at once prosecutors and judges as well as commercial agents of their respective Governments; and it is not always possible to expect a person to be equally qualified in judicial training and in commercial knowledge. Although the establishment of Supreme Courts in Shanghai by Great Britain and the United States releases their Consuls in that locality from some of their judicial duties, it does not relieve them from the duty of attending the Mixed Courts; and in the other 74 ports Consuls are the only judicial officials competent to exercise jurisdiction over foreigners.

Personal considerations apart, the existence of exterritoriality is an impediment to foreign trade. China is reluctant to delegate her sovereign rights and only grants them under duress. In consequence, she stipulates that persons not under her jurisdiction should confine themselves to open ports and not be permitted to reside or trade in the interior.[1] Moreover, as she feels that the increase in the number of Consular Courts consequent on the increase of the number of treaty ports would make further encroachments on her sovereign rights, she is determined to oppose the opening of more ports. These conditions explain the slow progress of her foreign trade, as it is difficult to extend it when foreign merchants are not allowed to approach customers except through agents in treaty ports.

On practical and judicial grounds, exterritoriality is equally open to objection. The jurisdiction is personal, and not territorial; a personal jurisdiction is by its nature limited. Moreover, Consular Courts have no jurisdiction

[1] Foreign merchants are only allowed to travel to the interior under passports issued by their Consuls and *visés* by Chinese authorities, but they must not stay there. Missionaries are, however, treated differently, and they may erect churches in the interior for their worship.

over cases involving a fine of more than a certain sum or imprisonment of more than, say, six months. For these cases, a plaintiff, if he is a foreigner, except a British or an American subject who would go to their Supreme Courts in Shanghai, would have to enter his suit in a court in his own country, or in that of the defendant, both of which may be thousands of miles away. This would cause delay in judicial redress and interruption to his occupation. In case the plaintiff is a Chinese, the defendant may be brought home for trial, but the other party will often be prevented from attending the case by his financial inability to travel to a distant country. To a large extent, he has to rely on mere chance to get his grievance adjusted. Justice will probably not be denied to the Chinese, but it is natural that, being ignorant of the final result of his case, he should cherish the belief that foreign criminals, if they have once left the shore of China, escape all punishments. Such a state of affairs is not satisfactory. It is a consolation, however, that so far very few cases have ever happened in China which require this irksome procedure; and that the establishment by Great Britain and the United States of Supreme Courts in Shanghai has gone a long way to solve the difficulty, as law-suits concerning Britons and Americans are more numerous than those concerning subjects of other States.

As a compromise, exterritoriality is not intended to last long. Before 1898 Japan was subject to the same disabilities as China, but since then she has denounced exterritorial jurisdiction. To-day an alien in Japan is under the law of the territorial sovereign just as if he were in France or the United States. With its entry into the present war, the Ottoman Empire also denounced exterri-

torial jurisdiction within its dominions. China is now the only country where this jurisdiction still lingers on, but in her treaties with Great Britain of 1902 it is already provided that, 'China having expressed a strong desire to reform her judicial system and to bring it into accord with that of Western nations, Great Britain agrees to give every assistance to such reform, and will also be prepared to relinquish her extra-territorial rights when she is satisfied that the state of the Chinese laws, the arrangement for their administration, and other considerations warrant her in so doing'. Similar provisions are inserted in her treaties with Japan and the United States.[1]

Before the total abolition of exterritorial rights, China must, first, reform her prisons, which, as they now exist in most parts of the country, are nothing more than filthy caves allotting a very limited space to many prisoners. They should be rebuilt and equipped with modern sanitary appliances so that, when occasion arises, Europeans could be detained in them without actual injury to their health. Secondly, she must be possessed of civil, industrial, commercial, and reformed criminal codes, so that intending litigants, before they go to Court, may understand their liabilities and responsibilities by referring their case to statutes. Justice will then be explicit and will not depend on the pleasure of judges. The third requisite is that she must train a large body of judges capable of enforcing and applying the codes with impartiality and fairness. Codes are only paper proclamations and, unless administered by persons of profound knowledge, wide experience, and incorruptible character, are not a guarantee for any judicial efficiency. If judges are to concentrate their

[1] Article 5.

minds on their judicial duties, they must not be also executive functionaries, as they have always been in China.

There is no doubt that China will eventually fulfil these three requisites, as she is already moving rapidly in that direction, but it is easy to understand that in a country so vast and so much upset by political instability and financial chaos, it will take some time to carry out these reforms to the satisfaction of foreigners. Twenty years may have to elapse before the total abolition of exterritoriality is accomplished. In the meantime some concessions should be made by foreign Powers in favour of China, so as to expedite her reforms and to encourage her jurists to recodify her laws and to improve her system of judicial administration.

The foreign Governments concerned should consider the proposal that in Peking, Tientsin, Shanghai, and a few other important towns, where prisons on the European model have already been established, and the performance of judicial duty has already been entrusted to qualified judges, the Chinese Courts should not only exercise jurisdiction over mixed cases in which the defendant is Chinese, as they do at the present, but also over mixed cases in which either party is Chinese, whether as plaintiff or as defendant. For the first five years, the jurisdiction of the Chinese Courts should be confined to mixed cases, but if they prove themselves efficient, it should be extended at the end of that period to cases involving foreigners only, whether they are subjects of one or more States. The Codes to be administered should be the Temporary Codes now in force in China.

If, however, the Powers do not see their way to trusting Chinese judges, it may be conceded by China that in all cases involving foreigners, whether as plaintiff or defendant, or both, an assessor or assessors should be appointed by the

Consulates concerned to attend the trial and to advise the Chinese judges. Their advice would not be binding on the Chinese, but in case of injustice being done they would be entitled to complain to the Consul or even to their diplomatic representatives in Peking. In the event of the complaint being very serious, the case under trial might be handed over to the Consulate.

Again, if the Powers are so distrustful of the Chinese judges as to refuse to consider even this compromise, a further concession may be made by China. She may suggest that she should employ foreign judges to sit in her reformed courts to try cases in which the defendant is not Chinese. These judges will be appointed and will be dismissable by her, and their jurisdiction will be extended to cases between foreigners of one or more nationalities and to mixed cases in which the defendant is a foreigner, although the plaintiff is Chinese, but it will not be extended to mixed cases in which the defendant is Chinese. The employment of foreign judges by China in her new courts will not only give foreigners an adequate guarantee against any possible injustice from inexperienced Chinese judges, but will also give the Chinese in the judicial service a chance to learn more of the European way of administering justice. Courts will then be a training ground for Chinese judges.

In case any one of these experiments so far discussed is adopted, it should be tried in places to be designated by the Chinese Government in consultation with foreign diplomatists in Peking. As soon as new courts and prisons, with well-trained judges and jailers, are opened in a district which has so far not been provided with them, the experiment should be extended to that locality. This procedure of gradual extension is not new to China. It was tried in the

case of opium suppression, in which Great Britain agreed to stop the import of Indian opium into a province as soon as it was proved that it had stopped its own cultivation.

If the difference between China and the West in the fundamental principles of law and its administration has resulted in the immunity of foreigners from her jurisdiction, the difference between them in the fundamental ideals of local government has made it necessary to delimit areas in which foreigners are to trade and reside under their own municipal Government. These areas are of two kinds, the Concessions and the Settlements. The difference between the two is that the former is a piece of ground leased by China to a foreign Government and sub-let to foreign merchants; and the latter is an area within which merchants may lease land directly from Chinese owners. In the former, the leases of all lots must be deposited in the Consulate of the lessee Power, and all transfers of lots or portions of lots under the said lease must be registered at the said Consulate; but in the latter the purchase of land will be registered at the Consulate where the deeds are registered, and also at that of the vendor or assignee. Further, in a Settlement, if the land rented is the property of a Chinese subject, his agreement or deed of sale must be sealed by the local Chinese authority, before the purchase money can be paid.

Over Concessions as well as over Settlements, China retains her right of dominion. She remains the Lord of the Soil, and collects land tax from owners, feuers, and lessees. She exercises as much jurisdiction over her own subjects within these areas as without, the only difference being that Chinese subjects within them cannot be arrested without a previous notification to the Consul or Consuls concerned. In time of war between her and another State, she could convert

them into military zones and make them liable to attack.[1] On the other hand, if the State to which they are granted is at war with a third State, they are exempted from any military operation so long as China is not a party to it. It is expressly stated in the Supplementary convention to the Treaty of 1858 with the United States that 'no such concession or grant shall be construed to give any power or party which may be at war with, or hostile to, the United States the right to attack the citizens of the United States or their property within the said land or waters'; and 'that the United States, for themselves, hereby agree to abstain from offensively attacking the citizens or subjects of any power or party, or their property, with which they may be at war on such tract of land or waters'.

The area of a Concession or Settlement is not necessarily the same as that of a treaty port. In some ports like Canton and Chinkiang, there is only one Concession, and in others like Tientsin and Hankow, there are many. In either case, it is open to controversy, and in fact undecided, whether the area of the port is equal to or larger than the area leased to foreigners. The Chinese Government maintains that the area of a treaty port does not extend beyond the limits of a Concession or Settlement or of all the Concessions or Settlements in it; whereas the foreign Powers insist that it covers the whole native city in which the Concessions or Settlements are included, together with all the highways leading to it. Evidently the attitude of the foreign Governments is dictated by the fact that an extension of the area of a treaty port would enlarge the area in which goods are exempted from inland taxation.

[1] During the Chino-Japanese War of 1894 Shanghai was made a temporary neutral zone by special arrangement.

The Municipal Council in a Concession or Settlement is elected by lessees and ratepayers and is entrusted with the functions of local government. It makes and enforces by-laws, maintains police, imposes taxes and rates, issues licences, opens and maintains roads, and establishes various public institutions. In a Concession leased to a certain Power, the Council will largely consist of its own subjects, but in the International Settlement of Shanghai, the Municipal Council is in the hands of subjects of all the States whose commercial interests are dominant. The public meetings held to elect Councils in different Concessions are summoned by the Consuls of the lessee States concerned, but in the international Settlement (of Shanghai), Consuls of different States form a court, which is responsible for the summoning of meetings of ratepayers and is also the channel of communication between the Council and the Chinese authorities. The paradox of these Councils is that the bulk of ratepayers, who are always Chinese, are not admitted to them or even allowed to attend public meetings of ratepayers. It is provided that a few Chinese delegates elected by Chinese commercial institutions should be consulted by the Municipal Council, on questions affecting Chinese residents, but they have no seat in the Council room, and the consultation does not always take place even when it is needed by the nature of the case. It was not anticipated that such disabilities would be imposed on the Chinese when the leases of Concessions was first granted.

Concessions and Settlements will be abolished when the local government of China has been improved to such a standard of efficiency as to be able to afford foreigners the security and comfort which they enjoy in other modern States. They will then be incorporated in the district

Governments, and foreigners will be allowed to travel and reside in any district of the country under the protection of Chinese magistrates. It will take some time for China to provide herself with all the requisites of local government, such as a police force and sanitary appliances, though there is little doubt that she will eventually execute these reforms with perfection.

It will be well to consider some changes which should be immediately introduced into the status and government of Concessions and Settlements. First, it should be observed that as the delimitation of a Concession or Settlement confers on the Power concerned no territorial aggrandizement, there is no reason why different Powers should establish Concessions of their own in the same treaty port so as to show their rivalry to each other. The ' appropriation of any land or concessions to distinct nationalities is a source of trouble and a grave disadvantage in the end to all, raising questions of diverse jurisdiction for municipal purposes and of distinct bodies of police, and tending to produce conflicts of jurisdiction, besides perpetuating a mischievous error that the interests of different nations in (Japan) are distinct and may be promoted at each other's expense, whereas, in truth, they are identical and are best promoted by union and common action '. On the initiation of Sir R. Alcock, Concessions held by different Powers in Japanese treaty ports were all amalgamated into a common concern before their final abolition in 1898, and it is now certainly time for the Powers to accord to China the same favourable treatment as they did to Japan. Moreover, government on the European model being the only reason for the maintenance of these areas, it is useless to perpetuate the distinction between a Concession and a Settlement, and all the Concessions in

China should be reduced to Settlements with their municipal government in the hands of ratepayers and leaseholders of all nationalities, including the Chinese. To prevent the outvoting of foreigners, it may be well to provide that the number of Chinese members on the Municipal Council should not constitute a majority.

Secondly, to afford Chinese officials more opportunities of understanding Western principles and methods of local government, and thus to expedite their reforms, the magistrate of the district in which a Settlement is situated should be made an *ex officio* member of the Council and be invited to deliberate and to vote on all measures. The chairman of the District Council in some towns where local self-government has been introduced should also be invited to attend the meetings of the Municipal Council, though expediency may require a denial to him of the right of voting. These steps, if taken, will at once rectify the present anomaly of refusing the Chinese any representation on the Municipal Council, and impress on them the efficiency and honesty with which foreigners administer their local government, qualities which are required of them before they can expect an incorporation of Settlements into Chinese institutions. They will at the same time promote the goodwill and mutual understanding between the Chinese and the foreign Communities in a treaty port.

## 7

## *Tariff and Tariff Administration*

So long as China was commercially isolated from the rest of the world, there were no imports or exports on which she could impose a tariff. When Canton was opened to Portuguese trade early in the seventeenth century, she was paid an annual sum of 24,000 taels by the Portuguese in lieu of any imposts. The British East India Company, who had established regular commercial intercourse with the Chinese at the beginning of the eighteenth century, were less favourably treated than their predecessors. They were subject to heavy taxes imposed by the Viceroy of Canton on their ships and cargoes, and they were even more annoyed by the vexatious way in which taxes were levied and collected than by their excessive rates.

In the treaty of 1842, which closed the Opium War, it was stated that China would establish at all open ports a regular and fair tariff to be 'publicly notified and promulgated for general information'. It was then agreed that the tariff should impose a duty of 5 per cent. *ad valorem* on all imports and exports, and that the system of collection should be uniform in all the ports. To the treaty of 1858 with Great Britain is annexed a tariff schedule which is revisable every ten years on the demand of either party and in accordance with the current market prices. The first revision, which took place in 1902, chose the average price of different articles in the years 1897–99 as the basis of

valuation, and the second revision, which did not occur till 1918, chose that in the years 1912–18.

It should be observed that the revision of the schedule is a quite different thing from the revision of the tariff. The tariff of China is fixed for an indefinite period and is subject to no alteration so long as the treaty of 1858 remains in force. In any Western State that adopts a Conventional tariff the treaty fixing the rates to be imposed on import from another country is only valid for a definite number of years and terminable on due notice given by either side, but China is refused the right to alter her tariff so long as she has not the sanction of Great Britain. Moreover, the tariff, which was primarily enacted in favour of British trade, has been made binding on all the treaty States entitled to the most-favoured-nation treatment in China, and the consequence is that it cannot be altered without the unanimous consent of thirteen States. The difference in temperament, in policy, and in interest has so far made it impossible for them to arrive at any unanimous conclusion, and China can do nothing but content herself with the fulfilment of her treaty obligations and with the loss of her fiscal independence.

In the Conventional tariff of most other States there are maximum and minimum rates for every taxable article, and some articles imported from a country that has received certain advantages and privileges are taxed at the minimum rate or at a rate lower than the maximum ; the same rate must then be imposed on goods of the same description imported from countries entitled to the most-favoured-nation treatment. In the tariff of China there is only one uniform rate for all imports, and that rate is the maximum. The maximum rate (5 per cent.) is so absurdly low that a reduction of it in favour of another State offers nothing

attractive enough to make it reduce its imposts on commodities of Chinese origin. In fact, when the tariff agreement of 1858 was concluded, there was no desire to give China anything by which she could bargain with other States. Stripped of all the characteristics of a Conventional tariff, it can only be looked upon as a tariff imposed to produce revenue for the Chinese Government, and yet the rate is so low that its yield is much less than it would be if only a few articles were taxed which would produce the largest amount of revenue at a minimum cost of collection, the bulk of foreign goods being imported duty-free.

An even greater anomaly is her duty on exports. While it is true that she is bound by no treaty to tax exports, she is nevertheless compelled to do it, and do it at the maximum rate permitted by the treaty (5 per cent.), because she is faced with the urgent necessity of increasing her immediate revenue irrespective of the effects the taxation may produce on the foreign trade of the country or the productive capacity of the people. In other States there are instances of taxing exports for the sake of preventing them from leaving the country of production, but no State has ever levied a uniform rate on all its exports as China does at present. Her policy is indeed short-sighted, because the revenue from export duties is so small that it does not balance the loss to the nation suffered from the consequent impediment to its export trade. It is suggested that the duty is defensible, because the export trade is mainly in the hands of foreigners who have to pay it, but it is obvious that the burden of taxation will always be shifted to the Chinese producers.

In the interior of China, as distinguished from treaty ports to which foreigners must confine themselves, foreign

imports or native produce for export are exempted from inland taxation, which is imposed on all commodities for home consumption, on the payment of a transit duty at the half-tariff rate. 'It is at the option of the British or other foreign merchant to clear foreign imports to an inland market, or native produce to a port of shipment, either by payment of the different charges demanded by the inland Custom Houses, or by one payment of a half-tariff duty', but in practice, he always chooses the latter alternative so as to get his goods exempted from further taxation, irrespective of the distance they may travel. It should be noted that in the interior are included all towns, districts, and villages not opened to foreign trade, and the distance from the sea-coast or a treaty port makes no difference to their status. On one point only China and other States have been in frequent controversy; the former maintains that a transit pass only exempts goods from inland duty in a single journey from a port to a place in the interior, or vice versa, and that the further transport from one spot in the interior to another subjects them to all internal charges; whereas the latter contend that it exempts the goods at all times, no matter how much they may be conveyed between different inland trading posts.

The inland charges are usually distinguished into li-kin and other dues, and are leviable on all goods *in transit* at a rate that varies at various times and in different localities. They not only hinder the circulation of commodities, but with the exemption granted to foreigners they actually put a premium on their goods and encourage foreign competition against native merchants. A consignment of native produce not destined for export has to pay all the taxes and dues when it passes through li-kin barriers and inland custom

stations, which exist in almost every district (Hsien) in China ; and the total sum paid may amount to as much as 50 per cent., in contrast to 2½ per cent. for foreign goods. The consequence is that in the interior of China, many merchants export their produce intended for home consumption to the nearest foreign port and then ship it back to a treaty port and convey it to its destination as if it were of foreign origin. The aggregate of the duties payable in this transaction is only 15 per cent. (outward transit duty 2½ per cent., export duty 5 per cent., import duty 5 per cent., and inward transit duty 2½ per cent.), and the difference between 15 per cent. and 50 per cent. would give the merchant a handsome surplus after the deduction of the cost of transport. The sugar produced in Fukien for the consumption of Canton, or coal from Shantung intended for Peking, is often first shipped to Hong Kong or Korea and then imported into China as foreign commodities in order to evade inland taxes.

In view of these evasions and other objections, China agreed with Great Britain, Japan, and the United States in 1902–3 that she would abolish li-kin and other inland dues on the condition that she was allowed to impose on imports a surtax of one and a half times the tariff duty and on exports a surtax of half the tariff rate. This new agreement, though it was to come into force on January 1, 1904, has so far been prevented from being put into operation, because it has not been possible to obtain the unanimous consent of thirteen states to it—a consent that is necessary to its enforcement according to the terms of the treaties. China, on her part, has also failed to abolish li-kin and other internal taxes, owing to political disturbances and to the inability of her Central Government to control

provincial authorities, to whom these taxes are the principal sources of revenue.

In the coastal trade between the different treaty ports foreigners are privileged to take part. If the merchandise *in transitu* consists of imports from a foreign country, it is exempted from li-kin and all other charges, except the import duty paid at its port of entry. If, on the other hand, it is made up of Chinese produce purchased by a foreign subject at a treaty port, it is regarded as an export and has to pay an export duty, but no other charges. On arriving at its port of destination, it pays a coastal-trade duty at the half-tariff rate. Should the produce be re-exported to a third port within twelve months after its landing, the coastal-trade duty paid on landing will be refunded, and a new coastal-trade duty will be paid at the third port. Produce brought from the interior to a port for coastal trade will pay transit duty in addition to export and coastal-trade duties.

In other countries the coastal-trade is reserved for their own citizens and not opened to foreigners. China only allows foreigners to enjoy this privilege because her own subjects do not possess a sufficient number of ships to carry on their coastal trade unaided. That it cannot be enjoyed by foreigners much longer is hinted at in the Mexican treaty of 1907, in which it is said that ' this concession (of letting merchant ships of either contracting party frequent the ports of another) does not extend to the coasting trade, granted only to the national vessels in the territory of each of the contracting parties ; but that if one of them should permit it . . . to any other nation, the other party shall have the right to claim the same concession or favour for its citizens . . . provided the said contracting party is willing

on its part to grant reciprocity in all its claims on this point.'

To resume what has been so far said in the way of making suggestions to improve the existing tariff arrangements, it should be emphatically stated that all the existing Commercial treaties should be abrogated and that China should be restored to her fiscal independence. To protect the interests of foreigners, a Conventional tariff equitable to both parties should be framed, and that tariff should be made valid only for a number of years, and subject to its renunciation either by China or by the other contracting party. The only argument that has been advanced in favour of the maintenance of the existing tariff is that, as the Customs receipts have been mortgaged for indemnities and loans, an alteration of it might produce a yield less than that produced at the present time, and that the diminution would endanger the security of foreign investors. But it could be easily arranged that, while China is allowed to fix her own tariff, she should give a guarantee that it will not be so altered as to cause its total yield to fall below the quota required to pay the principal and interest of the debts and loans mortgaged on the Custom receipts.

To avoid the disadvantages of a uniform rate for all imports mentioned above, it would be wise for the Government of China not to grant the most-favoured-nation treatment to many States. At present, when the industry and commerce of foreigners in China are more developed than those of the Chinese in other countries, the reciprocal most-favoured-nation treatment will always bring more advantages to foreigners than to the Chinese. This treatment should only be accorded as a return for some privileges or immunities granted by other countries in favour of the

Chinese commodities exported to them and should on no account be granted without a consideration. Moreover, it should be made clear in all the treaties between China and other Powers that this treatment is reciprocal, as it is at present uncertain whether the Chinese who reside, trade, or have commercial interests in the countries entitled to the most-favoured-nation treatment in China, are accorded the same treatment. In her treaties with the United States, Japan, Austria, Brazil, Mexico, and Peru, it is stated that the most-favoured-nation treatment shall be reciprocal, but in those with other states, including Great Britain and France, excepting their colonies in Burma and Annam, it is not provided whether this shall be the case. Although they have not, so far, discriminated against the Chinese, they could do so without violating any treaty obligation.

Having confined the most-favoured-nation treatment to as few States as possible, China should recast her import tariff and substitute for the uniform tariff of 5 per cent. one varying in rates for different articles.[1] The luxuries imported should be subject to high duties and the necessaries to low; raw materials for manufacture, and the machinery required for the industrial development of the country, should be imported duty-free. The States which feel aggrieved by the high duties imposed on some of their goods should be compensated by a reduction of rates on other goods which they also export to China in large quantities. As an instance, France, though highly taxed on her wines, may be accorded a specially low tariff for her finished silk exported to China, and the accordance of a reduced rate on silk to a third State entitled to the most-favoured-nation treatment would not necessitate a grant of the same privileges

[1] Immigration is not covered by the most-favoured-nation clause.

as those obtained by France, because it may be unable to supply silk of the same weight, length, and fineness as the French.

It is true that a country which is passing from the purely agricultural state to the industrial, requires some protection for its infant industries against foreign competition, but in China the transition has hardly begun and there are, as yet, very few industries to protect. Moreover, as the foreign capital required for the development of the country will always be imported in the form of goods, a protection against them will be inconsistent with the policy of absorbing foreign investments. In fact, at a time when the annual volume of foreign trade per head is only 6*s*., China requires the creation of a demand rather than a restriction of supply. The people should be encouraged to consume foreign goods in order to raise their standard of living, and the only thing in China (agriculture) that offers employment to the overwhelming majority of her people, and that needs protection in order to keep them employed, has already been sufficiently protected by virgin soil and cheap labour, and requires no protective tariff.

For many years to come, the main object of the Chinese tariff should be directed towards the production of a maximum revenue at a minimum cost to the consumer. The main benefit she can hope to derive from the power of fixing her own tariff is that she will have something to bargain with, either in the way of making a return to other States for their favourable treatment of Chinese imports or as a retaliation on their discrimination against them. She should, on her own initiative, abolish li-kin and all such dues irrespective of what she might get from other Powers in return. The only defence for their maintenance,

apart from the weakness of the Government already alluded to, is that during the past few years they have brought in revenue almost as large as can be expected from the imposition of a surtax as contemplated in the treaty of 1902; but with the suppression of the opium trade, from which the bulk of the li-kin and other revenues were derived, they will produce very little, and their repeal should not cause the Government to suffer any loss.

To complete our study of the Chinese tariff, it will be necessary to understand its administration. Before 1842, it was her Viceroys and Intendants of Circuits who were responsible for the collection of customs duties, but the practice of corruption and illegal exaction gave rise to numerous complaints from foreign merchants. After the treaty of Nanking, it was arranged that foreign Consuls should collect these duties for the Chinese Government, but the increase in the volume of trade and the specialized skill required of customs administrators made it difficult for them to do this extra work with efficiency. A board composed of the Intendant of the Circuit and three foreign representatives was then constituted in Shanghai to collect taxes and to supervise shipping, but it died a premature death because it was impossible to work. In 1854, an Inspector-General of British nationality was appointed by the Chinese Government, and the assumption of this office by Sir Robert (then Mr.) Hart in 1863 marked the beginning of the Customs Service as it exists at the present time. The understanding with Great Britain of 1889, reaffirmed in 1906, has made it obligatory on China to employ a Briton at the head of the Service, so long as her trade exceeds in aggregate that of any other treaty State.

The Inspector-General is entrusted with the direction

and supervision of the Custom Houses in all the treaty ports; with the appointment and promotion of personnel in the service; and with the establishment and maintenance of lights and harbours on the coasts. He was formerly under the Ministry of Foreign Affairs, but since 1906, when the Department for 'Customs Affairs' was created in Peking, he has served under the new institution. The Chief Commissioner of the Custom House in a treaty port, usually a foreigner, carries on much the same functions as the Inspector-General, though by the nature of things he attends to administration in much greater detail. He examines the papers of all the ships entering the port, collects duties both on imports and exports, issues transit passes, examines packages, and prevents fraud. In case of a dispute with a shipowner or consignee, he has to deal with his Consul and, if necessary, appears in the Consular Court. He also collects coastal-trade duties and li-kin and other inland dues within the 15-mile limit from the port. The total number of Custom Houses in China, including those in leased territories, is forty-seven, and it will be increased when more ports in Manchuria and Mongolia are opened to foreign trade in accordance with the provisions of the treaty of 1915 with Japan. The staff of the whole service now numbers 7,500, of whom 2,000 are foreigners and the rest Chinese.

The foreign members of the staff have served China loyally, and have never shown any prejudice in favour of their own countries. They have maintained the standard of efficiency and vigilance set up by Sir Robert Hart, and have won the admiration of foreigners and the Chinese alike. The way in which they are recruited is thoroughly international, and all posts, except the Inspector-General-

ship, are open to candidates from all treaty States, ranging in commercial importance from Great Britain to Peru. So long as the loans and indemnities mortgaged on customs receipts are not redeemed by China, it will be difficult to get the foreign Powers, who are distrustful of the Chinese on monetary matters, to consent to a restoration of the Customs Administration to the Chinese themselves. In fact, during the past seven years, when the country has been faced with constant political upheaval, the Customs revenue has not been even remitted to the Chinese Government,[1] but deposited by the Inspector-General in the foreign Banks in Tientsin, Shanghai, and Canton in order to meet the annual loan charges. There have been attempts to make use of the foreign staff of the Customs for the management of securities offered by China for railway loans in the event of a default of payment of principal and interest, as is stipulated in the Tientsin–Pukow Railway agreement.

Under these circumstances, it will not be possible to cease employing foreigners for the Customs Administration when the Tariff is revised; but it is a matter of urgent importance that the Chinese should be trained for the Service. The Inspector-General should be less neglectful in this direction than he has been in the past, and Customs schools on the model of that in Peking, established in 1906, should be opened in all treaty ports so as to encourage and attract promising young Chinese. It should be made a condition binding on the Inspector-General that a certain number of graduates from these schools should be enrolled in the service every year. They should first be employed in inferior positions and, when qualified, in responsible posts, and their promotion should be entirely based on

[1] Only the surplus is remitted to Peking.

merit. So long as the Inspector-General is a foreigner, there is no need of apprehension on the part of foreign creditors that the introduction of the Chinese would lower the standard of administrative efficiency and thus diminish the receipts, and it would in time furnish China with a thoroughly trained native staff capable of taking over the Administration, when customs receipts are no longer mortgaged for foreign loans.

## 8

## *Economic Concessions and Foreign Investments*

In this chapter it is proposed to deal, first, with concessions granted to foreign Governments; secondly, with Chinese public loans issued through foreign banks; and thirdly, with foreign capital invested in industrial enterprises in China.

(1) Under the first category comes the Russian Concession of the Chinese Eastern Railway, which runs from Chita through the Chinese province of Manchuria to Vladivostock and connects the terminus of the Trans-Siberian Railway with the Russian Pacific port. Its length in Chinese territory is about 980 miles, and its total cost of construction 350,000,000 roubles. In the contract between the Chinese Government and the Russian Railway Syndicate, it is provided that subjects of both States may equally take shares in the capital authorized at 5,000,000 roubles, but the provision has offered no attractions to the Chinese. They resent a concession which gives the control of their strategical points to an Alien Government; and far from being willing to give it financial help, they tried their best to prevent the railway scheme from coming into operation. Moreover, they have little capital to invest.

The management of the railway is entrusted to a Committee elected by shareholders, and its Chairman must be Chinese. But events have proved that, to all intents and purposes, the Chairman is only a figure-head elected to

'save the face' of the Chinese Government. The full power of control rests with the Russian Minister of Finance, who guarantees the railway revenue for working expenses and amortization of bonds, which can only be issued with his consent. Moreover, he has the power to accept or reject nominations made by the Committee of Engineers and other officials.

The South Manchurian Railway now owned and controlled by Japan was originally the southern extension of the Chinese Eastern Railway. It has been transferred to her since the conclusion of the Russo-Japanese War, and the conditions formerly binding on the Russian Government are now, presumably, binding on the Japanese. But the South Manchurian Railway Syndicate, the capital of which is almost entirely supplied by the Japanese Government,[1] has now acquired the additional concession of the Antung–Mukden line and has built several branch lines, making a length, with the main line included, of 680 miles. The Syndicate is also authorized by the Chinese Government to exploit mines in Fushan, in Yentai, and in Hsin Chiu coalfields. It maintains a steamer service between Shanghai and Dalny, manages the Dalny Harbour, and supplies gas and electricity to several towns in Manchuria.

Under the contract between Russia and China, the latter has the right to redeem the lines thirty-six years from the date of their opening to traffic. This remains true, so far as the portion retained by Russia is concerned. For the portion transferred to Japan, the term of redemption has been extended from thirty-six to ninety-nine years and the

[1] The authorized capital of the South Manchurian Syndicate is 150,000,000 yen and the subscribed 120,000,000, of which the Japanese Government take 100,000,000 yen.

earliest possible date of redemption has been fixed at 2002. 'The term of the Antung–Mukden line shall expire in 2007.'

In connexion with her lease of the Kiaochow Bay, Germany is granted the right to construct a railway from Tsintao to Tsinanfu. Its total length now opened to traffic is 284 miles and its cost of construction 58,032,000 marks. In its agreement with the Chinese Government, the railway syndicate stipulates that the Government or people of China may subscribe to the capital and appoint directors, but, as in the case of the Chinese Eastern Railway, the shortage of capital and the suspicion of foreigners have prevented the Chinese from investing money in the enterprise. After the lapse of twenty years from the time of signing the agreement, China may purchase the line by paying four-fifths of the original cost of the machinery, rails, and other equipments, but in case she desires to borrow foreign capital for the development of the province of Shantung, German capitalists will have the preference.

In association with the railway concession, Germany has the right to exploit mines within thirty li, or ten miles, limit from the line, and has operated those in Poshan and Weihsien districts, which in 1913 produced 687,000 tons of bituminous coal. The additional right to prospect for mines in seven areas not included in the railway zone was acquired by the Syndicate, but so far no great success has crowned its efforts.

In the Province of Yünnan, France has extended her railway system from Indo-China. A syndicate with a capital of 12,500,000 francs, together with a subvention of 12,500,000 francs from the Government of Indo-China, was entrusted with the construction of the line from

Haiphon to Laokay on French territory, and from Laokay to Yunnanfu on Chinese territory. The total cost of construction is 165,000,000 francs and the mileage is 533·77, of which 288·94 miles are on Chinese soil. Under the agreement signed with France in 1903, China has the right on the expiry of twenty years from that date, to 'get back the land granted and to repurchase the line from the French Government after the payment of all expenses put into the railway, including stocks, interest and principal of bonds, and all properties in connexion with the line'.

All the concessions so far dealt with are immune from any interference by the Chinese Government, before the time of their redemption; and they were granted under the pressure of the powers interested, who demanded them not with the motive of developing the country, but with that of establishing their influence in certain parts of it, so that they might delimit their respective spheres of interest and convert them into their protracted territory, in the event of a disruption of the Chinese Empire.

(2) The more important asset of foreign capital in China is that invested in public loans issued by the Chinese Government. We need not be detained here with her loans issued before the war with Japan, as they have now all been redeemed; nor with her war loans issued in 1894–5, to the aggregate of £6,635,000, as they were also promptly redeemed within twenty years. The loans issued after the war to pay her indemnity to Japan and other demobilization expenses are represented by a Franco-Russian Government loan of £15,820,000 and two Anglo-German Government loans of £1,000,000 each. They are all secured on the Maritime Customs Revenue with the additional guarantee of the Russian Government in the case of the Franco-

Russian loan, and of charges on three salt taxes and four li-kin revenues in the case of the second Anglo-German loan. The amounts of principal outstanding on December 31, 1915, are respectively £9,745,446, £10,901,475, and £13,148,950. It is interesting to note that Customs Receipts were offered as security, not only because of the handsome sum of money they yielded to the Chinese Government, but also because of the fact that the Customs administration was in the hands of foreigners whom the lending Powers could trust to remit their receipts regularly and without any default to the Government to enable them to pay their debt.

The Boxer indemnity amounting to £67,500,000 to be paid by China to different Powers was converted into a loan

| *Date.* | *Title, Source, &c.* | *Principal Amount.* £ | *Interest.* % | *Price of Issue.* | *Amount received by Chinese Government.* |
|---|---|---|---|---|---|
| 1898 | British and Chinese Corporation for Imperial Railways of North China | 2,300,000 | 6 | 97 | 90 |
| 1898 | Franco-Belgian Loan for Peking–Hankow Railway | 4,500,000 | 5 | — | 90 |
| 1902 | Russo-Asiatic Bank Loan for Shansi Railway (Floated in France) | 1,600,000 | 5 | — | 90 |
| 1903 | Franco–Belgian for Kaifeugfu–Honan Railway | 1,000,000 | 5 | — | 90 |
| 1907 | Franco–Belgian Supplementary Loan (Kaifeugfu–Honan Railway) | 640,000 | 5 | — | 90 |
| 1904 | British and Chinese Corporation Loan for Shanghai–Nanking Railway | 2,250,000 | 5 | 97½ | 90 |
| 1907 | British and Chinese Corporation Loan for Shanghai–Nanking Railway | 650,000 | 5 | 100 | 95½ |

redeemable by annual instalments in thirty-nine years. With its interest accumulated, the principal outstanding in 1914 was £63,847,268. It is secured on the balance of the Maritime Customs Revenue not already mortgaged for previous loans, and in fact, to enable the Chinese Government to pay their indemnity, the Powers consented to revise the Chinese tariff in 1902, bringing it to an effective 5 per cent. *ad valorem* by re-valuing the commodities according to their current market prices.

Other loans issued by China on foreign markets are mostly for the construction of railways. For the sake of simplicity and contrast the following table is appended.

| *Term of Redemption.* | | *Principal paid off to Dec. 31, 1915.* | *Principal outstanding on Dec. 31, 1915.* | *Security.* |
|---|---|---|---|---|
| *Years.* | *Date.* | £ | £ | |
| 45 | 1944 | 632,500 | 1,667,500 | Government Guarantee and Revenue of Railway, Railway to be handed over in case of default. |
| 30 | 1928 | Redeemed in 1909. | | |
| 30 | 1932 | 152,500 | 1,447,500 | Government Guarantee and Revenue of Railway. |
| 30 | 1934 | 82,000 | 1,550,000 | Government Guarantee and Revenue of Railway. |
| 25 | 1932 | | | |
| 50 | 1953 | To be redeemed in full in 1953 | 2,900,000 | Profits of and mortgage upon the Railway. |
| 47 | 1953 | | | |

| *Date.* | *Title, Source, &c.* | *Principal Amount.* | *Interest.* | *Price of Issue.* | *Amount received by Chinese Government* |
|---|---|---|---|---|---|
| | | £ | % | | |
| 1905 | Pekin Syndicate Loan for Taskow–Chinghuas Railway | 700,000 | 5 | — | 90 |
| 1905 | Hong Kong Government Loan for redemption of Canton–Hankow Railway Contract | 1,100,000 | 4½ | — | 100 |
| 1907 | British and Chinese Corporation Loan for Canton–Kowloon Railway | 1,500,000 | 5 | 100 | 94 |
| 1908 | Anglo–German (Imperial Chinese Government, 5 per cent. Tientsin–Pukow Railway Loan | 3,000,000 | 5 | 98¾ | 93 |
| 1909 | Anglo-German (Imperial Chinese Government, 5 per cent. Tientsin–Pukow Railway Loan | 2,000,000 | 5 | 100 | 93 |
| 1908 | British and Chinese Corporation Loan for Shanghai–Hangchow–Ningpo Railway | 1,500,000 | 5 | 99 | 93 |
| | | *yen* | | | |
| 1908 | Anglo-French Loan for Redemption of Peking–Hankow Railway | 5,000,000 | 5 | 98 | 94 |
| 1908 | Japanese Loan for Kirtin-Changchun Railway | 2,150,000 @ 10 = £215,000 | 5 | — | 93 |
| 1909 | Japanese Loan for Hsinkimtun–Mukden Railway | 320,000 @ 10 = £32,000 | 5 | — | 93 |
| | | £ | | | |
| 1910 | Anglo-German (Tientsin–Pukow Railway Supplementary Loan) | 3,000,000 | 5 | — | — |
| 1910 | London City and Midland Bank (Yuchuaupa Bonds for Peking–Hankow Railway Expenses) | 450,000 | 7 | 108 | 100 |

| *Term of Redemption.* *Years.* | *Date.* | *Principal paid off to Dec. 31, 1915.* £ | *Principal outstanding on Dec. 31, 1915.* £ | *Security.* |
|---|---|---|---|---|
| 30 | 1935 | First Instalment due, 1916 | 700,000 | Government Guarantee and Revenue of Railway. |
| 10 | 1915 | Redeemed. | | |
| 30 | 1937 | First Instalment due, 1920 | 1,500,000 | Profits of and mortgage upon the Railway. |
| 30 | 1938 | First Instalment due, 1919 | 5,000,000 | First charge upon li-kin and internal revenues of Chili, Shantung, and Kiangsu. |
| 29 | 1938 | | | |
| 30 | 1938 | First Instalment due, 1919 | 1,500,000 | Surplus earnings of Peking–Mukden Railway. |
| | | | *yen* | |
| 30 | 1938 | First Instalment due, 1919 | 5,000,000 | Surplus taxes of Chekiang, Kiangsu, Hupeh, and Chili. |
| 25 | 1934 | First Instalment due, 1914 | 215,000 | Revenue of the Railway. |
| 18 | 1927 | £5,399 16*s.* | £26,607 4*s.* | Revenue of the Railway. |
| | | | £ | |
| 30 | 1943 | First Instalment due, 1921 | 3,000,000 | First charge upon li-kin and certain internal taxes of Chili, Shantung, Kiangsu, and Akkwei. |
| 10 | 1920 | First Instalment due, 1916 | 450,000 | Government Guarantee. |

| *Date.* | *Title, Source, &c.* | *Principal Amount.* £ | *Interest.* % | *Price of Issue.* | *Amount received by Chinese Government.* |
|---|---|---|---|---|---|
| 1910 | Peking–Hankow Redemption Loan (Yokohama Specie Bank) | 220,000 | 7 | — | 97½ |
| 1911 | Yuchuanpu Loan (Yokohama Specie Bank) for Peking–Hankow Railway Expenses | 1,000,000 | 5 | — | 95 |
| 1911 | Hukwang Railways Sinking Fund Gold Loan (Four-nations group) | 6,000,000 | 5 | — | 95 |
| 1912 | Nanshang–Kinkiang Railway Loan (East Asia Industrial Co.) | 500,000 | 6½ | — | 100 |
| 1912 | Lung-Tsing-U-Hai Railway Loan (Belgian Syndicate) | 4,000,000 | 5 | — | — |
| 1913 | Sinyang–Pukow Railway (British and Chinese Corporation) | 3,000,000 | 5 | — | 95 |
| 1914 | Taskow–Chinghua Railway | 800,000 | 5 | — | — |
| 1900 | Anglo-Danish Telegraph Loan | 210,000 | 5 | — | — |
| 1901 | Anglo-Danish Telegraph Loan | 48,000 | 5 | — | — |
| 1911 | Telegraph Loan (Eastern Extension and Great Northern Railway Company) | 5,000,000 | 5 | — | — |
| 1911 | Currency Reform and Industrial Development Loan (Four-nations group) | 10,000,000 | 5 | 95 | 95 |
| 1912 | Loan from Messrs. B. Crisp & Co. | 5,000,000 | 5 | 95 | 89 |
| 1913 | 5 % Reorganization Loan (Five-nations group) | 25,000,000 | 5 | 90 | 84 |
| 1914 | Chinese Government 5 % Gold Loan (Banque industrielle de Chine) | 4,000,000 | 5 | — | — |
| 1915 | Chinese Republic 5% Conversion Loan (Banque Italo-Belge, London) | 400,000 | 5 | — | — |

| *Term of Redemption.* *Years.* | *Date.* | *Principal paid off to Dec. 31, 1915.* £ | *Principal outstanding on Dec. 31, 1915.* £ | *Security.* |
|---|---|---|---|---|
| 10 | 1920 | First Instalment due, 1915 | 210,000 | — |
| 25 | 1936 | First Instalment due, 1922 | 1,000,000 | Government Guarantee and Tribute Grain Conversion tax of Kiangsu. |
| 40 | 1951 | First Instalment due, 1921 | 6,000,000 | Hupeh and Hunan Salt and li-kin revenues and Hupeh rice tax. |
| 15 | 1927 | First Instalment due, 1922 | 500,000 | — |
| 40 | 1952 | — | 4,000,000 | Government Guarantee and mortgage on railway. |
| 40 | 1953 | — | — | — |
| 20 | 1935 | — | 800,000 | — |
| 30 | 1930 | — | — | Shanghai–Taku Cable. |
| 29 | 1930 | — | — | Chefoo–Taku Cable. |
| (36 half-yearly instalments) | | 41,664 | 458,336 | Certain Telegraph Receipts. |
| (not yet floated) | | An advance of £400,000 made on June 1, 1911 | | Tobacco, Wine, production and consumption taxes of the three Manchurian Provinces and new Salt Sun tax 7th whole China. |
| 40 | 1952 | First Instalment due, 1923 | 5,000,000 | Surplus revenue of Salt Gabelle. |
| 47 | 1960 | First Instalment due, 1930 | 25,000,000 | Salt duties. |
| 50 | 1964 | First Instalment due, 1930 | 4,000,000 | |
| 4 R | 1968 | — | 300,000 | Land tax and Customs duties. |

A few remarks on these loans are necessary.

In the first place, it should be made clear that, unlike those in other countries, foreign loans in China are not purely commercial transactions. They are negotiated by banks or other financial institutions with the consent and support of their Governments, and subject to their control. Political expediency influences and dominates considerations for remuneration, and often compels bankers or financiers to accept or reject terms in accordance not with market conditions, but with political instructions issued by their Governments. It follows that with every change in governmental policy, there is a change in the terms of loan contracts.

Speaking generally, there are two distinct periods in the history of Chinese public loans, each (period) characterized by a policy not of the Chinese Government, but of foreign Powers. The period before 1908 was marked by international competition, and since then it has been marked by co-operation. To illustrate this distinction, let us take a few instances of railway loans.

In 1898, Russia, acting through the agency of a Belgian Syndicate, acquired the right to finance the Peking-Hankow Railway. She also offered, through French and Belgian Banks, to finance the railways of Shansi with the object of exploiting the coal-mines in that province. These two moves caused anxiety to Great Britain, who was afraid of a Russian encroachment on her rights and interests. In consequence, she demanded from the Chinese Government that the Shanhaikwan-Hsinmintun line (now a section of the Peking-Mukden Railway) should be built with British capital and by British engineers so as to cut off any possible connexion between the Russian railways in the interior of China and those in Manchuria. To this demand China yielded ; and

finally Russia and Great Britain came to an agreement to the effect that the former would not seek for railway concessions for herself or her nationals in the basin of the Yangtze, and the latter would not seek them to the north of the Great Wall. At the same time, the Government of Hong Kong was anxious to lend money to China to redeem the Canton-Kowloon Railway from the American China Development Company, to whom the construction had been conceded, so as not to introduce American competition in any region near the Colony.

Competition always promotes the interests of the consumer, as he can then buy in the cheapest market, but, as already noted, foreign competition in China is not governed by economic law. It is a struggle between the diplomatists of different Powers, or between diplomatists and the Chinese Government. In fact, it placed China in the most anomalous position, because the number of loans she could accept at a time were not sufficient to satisfy the demands of all her treaty States, with whom she desired to cultivate cordial relations. Since 1908 the policy of competition has been changed to that of co-operation. The Tientsin-Pukow Railway was financed by a corporation consisting of the Hong Kong and Shanghai Bank and the Deutsch-Asiatische Bank. These two institutions negotiated conjointly with the Chinese Government for a loan and divided it into two parts, to be floated respectively in London and Berlin at the same price and bearing the same interest. The northern section of the line was to be constructed by a German engineer and the southern by a British. The principle of co-operation was further extended in the case of the Hukwang Railway, and the Currency Reform and Industrial Development in Manchuria Loans finally, in 1911, included

France and the United States in the enterprises (in addition to Great Britain and Germany).[1]

With the negotiation of the Reorganization Loan in 1913, International Co-operation reached its culminating phase. The banking Group representing four nations was extended to one representing six. Russia and Japan were invited to join the charmed Consortium and participate in the floatation of the loan. It was now declared in the official language of the Governments interested that Internationalization of Chinese Loans had become their mutual determined policy, and it was further proclaimed by the British Government with full conviction that ' both in the interests of their own financiers and the investing public, and also as a safeguard of China's credit, it is incumbent on them to prevent . . . all possibility of a return to the former dangerous policy of unprofitable international competition in China, which only enabled the Chinese Government to obtain money without adequate guarantees, and rendered it impossible for the Governments interested to exercise the necessary control over the terms of any loans. There can be no doubt that the internationalization of future loans would go far to secure this desirable end '.[2]

International Co-operation, carried to this extreme, has its drawbacks and is as injurious to China as unscrupulous competition. It denies her the freedom to contract loans in the most reasonable market, and under the most favour-

[1] It should, however, be noted that international co-operation does not exclude China from negotiating separate loans, as she has in the case of the Pukow-Sinyang and the Sinyufu-Shasi railway loans, but the struggle for the right to finance and construct railways among different Powers so as to check and balance each other has now come to an end.

[2] Cd. 6446, p. 4. The Foreign Office to Lord Balfour of Burleigh.

able terms. It imposes on her the will of the lending group and threatens to drive her into bankruptcy in case she refuses to accept the terms. It creates a monopoly and destroys the activities of other financiers. Moreover, if the control of expenditure is enforced, it may lead to an international control of China's finances on the Egyptian model, a control that would destroy her fiscal independence.

For these reasons, the United States withdrew from the Consortium and refused to commit herself to a policy injurious to the Republic. Moreover, it should be noted that while the five-nation group were deliberating with the Chinese Minister of Finance on the security and interest, the Chinese Government, through their agency in London, signed quietly and confidently a loan for £1,000,000 with a Stock Exchange broker, named Crisp, representing a group of British and French financiers. The conclusion of this loan created a storm of indignation in the chancelleries of the Powers concerned and induced the Quintuple Group in Peking to modify their terms. In the final agreement, though it was provided that the Chinese Government should give the group the option of issuing future loans guaranteed on the revenue of the Salt Administration (on which the Reorganization Loan is mortgaged), or supplementary to the Loan just concluded for the same purposes as those to which it was to be expended, namely, the redemption of outstanding loans, the disbandment of troops, and the payment of current administrative expenses, there was created nothing like a monopoly for the group or an international control of China's finances. Moreover, it is very unlikely that China will depend on further borrowings for the purposes specified. In fact, it is only due to the disorganization of her financial and political machinery caused by the

Revolution that she is compelled to borrow money for these purposes ; and if further loans are needed, as no doubt they will be, they will, let us hope, be devoted to productive purposes, such as extension of railways and reform of the currency. For these productive purposes, China is free to borrow on any market, and is bound by no obligation to the Quintuple Group.

International control of China's finance may have been avoided, but as a preliminary condition to the successful conclusion of the loan, it was agreed that a Russian, a German, and a Frenchman should be employed by the Chinese Government to co-operate with their own officials in the Audit Bureau and the National Loan Department to which the control of the expenditure of the loan was to be entrusted ; and that, should the representatives of the Group ' be in doubt in respect to disbursements of loan funds which have been made ' by the Chinese Minister of Finance, the said representatives ' shall be entitled to make inquiries of the foreign Director of the National Department and to call upon him for the production of receipts and vouchers for inspection '. Moreover, the Salt Gabelle, on which the loan was mortgaged, had to be reorganized and administered with the assistance of a foreign (British) Chief Inspector and many other assistant inspectors (foreign). It is true that these officials are all appointed and may be dismissed by the Chinese Government, subject to no interference of the Group, but it is worthy of note that the fact that they must be foreigners, and that the group insisted on their appointment, is indicative of its anxiety to get the loan funds properly expended and the security efficiently administered so as to produce sufficient yield to meet the service of the loan—an anxiety that is explained by its

distrust of Chinese officials. In fact, it may be said that the control by foreign employees of the Chinese Government is a *modus vivendi* between an independent control by China herself and that by foreign delegates.

In her railway loan agreements signed *before 1908*, China consents to the supervision and direction by lending banks in regard both to construction and to the expenditure of the proceeds. In the Shanhaikwan-Hsinmintun Railway loan agreement, signed with the British and Chinese Corporation in 1898, it was provided that ' during the currency of the loan, the chief engineer should be a British subject and appointed by the Corporation ; that the principal members of the Railway staff should be Europeans appointed by the Chinese Administrator-General, and only liable to be dismissed in the event of misconduct, or incompetency after consultation with the chief engineer ', and that ' an European accountant is to be appointed by the Corporation with full power to organize and direct the keeping of railway accounts, and to act with the Administrator-General and the chief engineer in the supervision of receipts and expenditure '. ' The loan was to be the first charge upon the security of the railway property between Peking and Shanhaikwan, and on the freights and earnings of the new line (from Shanhaikwan to Hsinmintun), when constructed.' The Chinese Government is responsible for the payment of the principal and interest at the proper date ; and in the event of default of payment, the railway line and its property are to be handed over to the Corporation.

These conditions are reproduced in the Shanghai-Nanking Railway Loan Contract with the additional article that the Corporation has the power to appoint two British members to the Board of Commissioners in charge of the general

supervision of the work (the remaining two members of the Board being Chinese and appointed by the Chinese Director-General).

The Corporation is to receive 20 per cent. of the net profit, and the experience gained during the Revolution in 1911 has proved that, so long as the loan is not redeemed, it can claim the right to make the railway neutral in times of internal strife between different political factions.

The same conditions prevailed in the case of the Peking-Hankow Railway, before it was redeemed in 1909 by the Chinese Government from the Belgian Syndicate. The control of the Taoching Railway in the province of Honan remains with the Peking Syndicate (a British firm), so long as the bonds issued by it for the Chinese Government are not redeemed.

It will be seen that in all the railways so far mentioned foreign control is strong, and that the chief engineers appointed by the lending corporations are not only charged with the construction of the lines but also with their up-keep after they have been built. Nominally, they are Chinese Government property, but during the currency of the loan China has not an absolute control of these possessions, and if she wishes to take any step not provided for in the original agreement, she has first to ask for the permission of the Corporations acting on behalf of investors.

In all the railway loans *since 1908*, foreign control is much diminished, if not entirely eliminated. In the Tientsin-Pukow Railway Loan Agreement signed in that year, it is provided that the construction and the control of the line rest entirely with the Directors appointed by the Government. The Directors appoint chief engineers acceptable to

the lending corporation, and employ accountants of their own choice. They control the funds derived from the loan and exercise their own discretion in the matter of purchase of material. There is no such provision as the sharing of profits by the Corporation, but for the service it has rendered in connexion with the issue of bonds and the payment of interest, a compensation is paid by the Government out of the first issues of bonds. In short, the line is entirely Chinese—under native ownership and control, except for a periodical inspection of the account books by the Corporation.

The loan is secured on the li-kin and inland excise of the four provinces which the railway traverses. Unlike other lines previously constructed with foreign capital, the Tientsin-Pukow Railway is not mortgaged, and in the event of the yield from these duties being insufficient to meet the service of the loan, they are to be administered by the Maritime Customs Service. This service, being staffed with Europeans, enjoys the confidence of foreign investors, and it is natural that it should be entrusted with this additional duty, if necessity arises, in the interest of China's credit, as well as in the interest of investors, but it is believed that this provision is not intended to be effective, as it is beyond the capacity of the foreign Customs Staff to administer the inland excise of China, which has been much complicated by thousands of years of tradition and immense diversity in the system of taxation in the different parts of the country.

The conditions governing the Tientsin-Pukow Railway loan have been made a basis of negotiation for subsequent loans, for that of the Hukwang Railway with the Quadruple Group, and for those of the Pukow-Sinyang and the Singyu-Shasi Railways with the British and Chinese Corporation.

The only difference is that these latter lines are mortgaged for loans, whereas the Tientsin-Pukow line is not; and that in the case of the Singyu-Shasi line the contract has been made on a percentage basis. The appointment of personnel and the control of the funds derived from loans remain entirely with the Chinese Government.

It may be argued that so long as the chief engineers are foreigners, as required by all these agreements—British and German on the Tientsin-Pukow line; British, German, and American on the Hukwang lines; British on the Pukow-Sinyang and the Singyu-Shasi lines—there must be a certain amount of foreign control. This is true, but it is a necessary inconvenience at this elementary stage of railway construction in China. Science is a new study to the Chinese and technological skill can only be acquired with experience. The work of training native engineers has only begun so recently that there has not yet been time to produce a sufficient number of them to undertake railway construction on an extensive scale. That the Chinese themselves, when properly trained and employed, can construct railways with the best results has already been proved by the Peking-Kalgan Railway, a Government line built by profits from the Peking-Mukden line.

It should therefore be made a rule that, on all lines built with foreign capital, Chinese engineering students, or those who have exceptional aptitude for engineering work, should be given every facility to improve their skill, and that as soon as they are qualified they should be employed in suitable posts. If this is done, the difficulty of obtaining native engineers will be soon overcome and eventually there will be no necessity to employ foreigners.

A word as to the control of the proceeds of loans by the

issuing banks. The *raison d'être* for such control is that the Chinese officials have not proved themselves worthy of confidence in the matter of handling money, and that, as they are inexperienced in railway work, they can hardly be expected to maintain the same standard of vigilance and efficiency as is found in most European railway managing departments ; but the successful construction and the good management of the Tientsin-Pukow line have already justified the belief that, provided they are equipped with a proper staff and are under proper supervision, they can be trusted.

In fact, it is mainly due to the elaborate system of financial check and control in other countries that the integrity of their officials has been well maintained. China is adopting this system by creating Audit departments and by giving her Parliament a control over finance. When the system has become effective, foreign financiers may well give up their distrust of the Chinese. They will then not be troubled with the control over securities and proceeds of loans, but simply present coupons for payment of principal and interest at the proper times. In fact, it is hoped that, with the better organization of Chinese banks, China will be able to float her loans in European markets by her own agents, without relying on the good-will of foreign financiers.

(3) Foreign Capital in private enterprises.

Subjects of treaty States have the right to 'frequent, reside, and carry on trade, industries, and manufactures, or pursue any other lawful avocation in all ports, cities, and towns of China which are now or may hereafter be opened to foreign residence and trade'. In pursuance of this right, they have not only established business firms of every description in various ports, but have also erected many factories, using the most modern machinery and employing

thousands of skilled and unskilled labourers to manufacture articles for all purposes, ranging in magnitude from a pin half an inch long to a steamship of 10,000 tons in displacement. The best-known works owned by foreigners are the Sunlight Soap Factory and Cotton Mills, which in 1914 owned 510,088 spindles and 3,948 looms, in addition to 355,600 spindles and 1,190 looms owned by the Chinese. The only restriction on foreigners in open ports is that they must not engage in the transport or manufacture of contraband goods and other prohibited articles, such as morphia, without special authorization by the Chinese Government.

It should be observed, however, that aliens are only free to act within the boundaries of open ports. In the interior, they are not allowed to trade or reside unless they are engaged in some religious mission. For pleasure or for the purpose of trade, they may only travel under passports issued by their Consuls and *visés* by the local authorities; and during the journey, they are entitled to the protection of Chinese officials, but may not establish business firms or industrial works. They may erect warehouses and may accompany their goods on transport from a port to the interior or, if purchased in the interior, to a port for shipment abroad, but during all these transactions they must not stay longer there than their business requires.

These rules are generally observed, but there are instances of evasion, mostly cases of Japanese shopkeepers or pedlars, who sell biscuits, medicine, and toys, and who, by virtue of their similarity to the Chinese in the standard of living and comfort, can mix with them more easily than most Europeans. A legal exception is, however, provided in South Manchuria.[1]

[1] See below.

To the general rules regarding foreigners in the interior mining merchants and engineers form an exception. The right to exploit mines, apart from that granted to foreign Governments in connexion with their railway concessions, is usually granted by special agreements. As an instance, the Peking Syndicate is authorized (by the Chinese Government) to exploit mines in the provinces of Shansi and Honan on the conditions that it advances a loan to China as her share in the capital of the mining Company; that, during the term for which it is authorized to exploit, it sets aside 6 per cent. of its annual proceeds for redemption of the loan and 10 per cent. for repayment of the capital and consequent reduction of interest; that it pays one-fourth of the net profits as royalties to the grantor; and that it pays a production tax of 5 per cent. at the pits. On the expiration of the term, it hands over all mines to China gratis and without any compensation; and in the event of Chinese merchants acquiring three-fourths of the shares of one mine within sixty years from the time of the grant, that mine may then be redeemed from the Syndicate.

Other mining explorers obtain their rights under different conditions. The French Syndicat du Yünnan undertook, in return for the right to operate mines and for the facilities given to it, to furnish annually 1,000,000 lb. of copper to the Chinese Government, provided the working of the mines allowed of it; to permit the Government to participate in the net profits to the extent of 35 per cent.; to pay taxes and duties as required by Chinese law; and to open a mining school for the benefit of the Chinese. In the agreement, it is said that 'the Syndicate undertakes to cause Chinese capital to participate as far as possible in the public issues of shares', but there are very few capitalists

in China who have the courage to invest in a joint-stock enterprise, the intricacies of which they do not understand.

This French enterprise, as well as that of the Peking Syndicate, is entirely under the control of the concessionaire, the Chinese Government having no voice in its management. There are other enterprises in which Chinese and foreigners take an equal number of shares and are jointly responsible for the management. Such are the Yalu River Timber Company and the Penshi Hu Mining Company, both Chino-Japanese concerns in Manchuria. In the contract relating to the former it is provided that 5 per cent. of the net profit shall be appropriated to the Chinese Government, 'in consideration of its permission to fell trees', and that 'the remainder shall be distributed among shareholders of the two countries'; in that relating to the latter, it is agreed that 'after paying 8 per cent. interest, any profits will be divided into ten equal parts, of which $2\frac{1}{2}$ will be paid to the Chinese Government as a contribution, and $6\frac{1}{2}$ will be equally divided among the Chinese and Japanese shareholders', the remaining one part being put aside as a reserve fund. In each of these two companies, there are two Directors-in-Chief, one of each nationality, both subordinate to the Chinese Governor of Manchuria, who is *ex officio* Director-General. So far as the form of the contracts is concerned, China is not placed in a disadvantageous position, but in practice the Japanese hold more than half the number of shares by registering themselves under Chinese names, and in the event of China being unable to subscribe the full quota of shares allotted to her—an event that often happens—they nominally advance her a loan as her subscription, but actually get control of the whole number of shares for themselves.

The Japanese Directors-in-Chief, with the support of their Government, often assume the exclusive right of control, relegating their Chinese co-operators to the position of a figure-head.

These joint enterprises are established by special agreements between the Governments concerned. There are other enterprises not supported by Government authority, but established in accordance with the law of the country in which they are registered or located. Little need be said of the co-operation between Chinese and other nationals in enterprises situated in other countries, or situated in China but under the control of other States. The Chinese are treated as citizens of any other friendly State and enjoy the same privileges and fulfil the same obligations. In fact, they are protected by two clauses in the treaty of 1902 with Great Britain to the effect that :

'Whereas questions have arisen in the past concerning the right of Chinese subjects to invest money in non-Chinese enterprises and companies, and whereas it is a matter of common knowledge that large sums of Chinese capital are so invested, China hereby agrees to recognize the legality of all such investments past, present, and future', and that

'It being . . . of the utmost importance that all shareholders in a joint-stock company should stand on a footing of perfect equality as far as mutual obligations are concerned, China further agrees that Chinese subjects who have or may become shareholders in any British Joint Stock Company shall be held to have accepted, by the very act of becoming shareholders, the Charter of Incorporation or Memorandum and Articles of Association of such Company and regulations framed thereunder as interpreted by British Courts, and that Chinese Courts shall enforce compliance therewith by such Chinese shareholders, if a suit to that effect be entered, provided always that their liability

shall not be other or greater than that of British shareholders in the same company.'

Under these two provisions, numerous Chinese have established industrial works and commercial houses in British Colonies and in many other parts of the world. They have also invested in many foreign companies, especially those whose interests are in the East, such as the Hong Kong and Shanghai Banking Corporation and many Insurance Companies having branches in China.

The same treaty provides that ' the British Government agree that British subjects investing in Chinese companies shall be under the same obligations as the Chinese shareholders in such companies '. This is effective, indeed, in Chinese companies established in other countries under the law, the notable instance being the investment by British capitalists in sugar or rubber plantations, in the Straits Settlements and the Malay States, owned and controlled by Chinese. But within the dominion of China there are very few instances in which foreign capital is invested in a Chinese enterprise. China has her own business methods and customs, which are beyond the capacity of foreigners to master. Her industries have hitherto been mostly organized on the system of partnership or single proprietorship, and very few of them on a joint stock basis. She is only beginning her industrial life in the modern sense of the term, and it will probably be some time before she can witness a full development of her modern enterprises. Moreover, a Chinese company registered in China will necessarily be under Chinese jurisdiction, and foreign shareholders may have to appear in Chinese courts in cases of litigation. Extra-territorial rights prevent them, however, from appearing in Chinese

courts as defendants, though they are allowed to lodge protests against Chinese. Under such conditions, it may be unwise for foreigners to invest in Chinese companies, even though the latter are so highly organized and developed as to attract their savings.

In the mining regulations issued by the Chinese Government in 1914, it is provided that 'citizens of treaty States may join with Chinese citizens in acquiring mining rights, but they must conform with these regulations and all other laws connected with them' and that they 'shall not hold more than 50 per cent. of the total number of shares'. Apart from the question whether these regulations are acceptable to foreigners, the restriction on the number of shares they may hold does not encourage their spirit of enterprise. Foreigners, once they invest their money in China, desire security, and so far they have not seen their way to trust the Chinese with the care of their money. The Chinese in China have not yet proved themselves capable of organizing modern enterprises to the satisfaction of foreign capitalists. So long as foreign capital is restricted to 50 per cent. the preponderant power of control will rest with the Chinese. The inability of the law courts to afford them proper protection is, in fact, the root of all troubles confronting industrial enterprises. It is hoped, however, that with the political settlement between the North and the South, and with the successful execution of judicial reforms, the Chinese will be enabled to develop their natural capacity for organizing industries, and that foreigners will be willing to lend them their capital and expert service as they do in the Straits Settlements. Free exchange of scientific knowledge and merchandise between China and the West will not only help her to

develop herself, but to supply America and Europe with many sorts of raw material and manufactured goods of which they are sorely in need.

The restriction by the Chinese Government on the introduction of foreign capital, as shown in the mining regulations, is explained by their dread of admitting foreign political influence and domination, which in the past have always accompanied commercial exploiters. The Chinese seem to have made up their mind that they would rather have their treasures buried underground than let foreigners open them and bring in diplomatic controversies. Their patriotism is not less strong than that of any other race, and the nationalistic feeling has been strengthened rather than weakened with the progress of modern education; and the time may come when the possession of heavy guns and cruisers will no longer enable foreigners to disregard the sentiments of the Chinese. It is therefore worthy of the consideration of the foreign Governments that, while they secure reasonable protection for the investors of their respective countries, they should allow them a free hand to compete in China, as they do in all other countries, without giving them any supervision or direction influenced by political or territorial considerations.

# 9

## *New Problems since the War*

### § 1. *Kiaochow Question*

On August 15, 1914, Japan dispatched to Germany an ultimatum in the following terms:

'We consider it highly important and necessary in the present situation to take measures to remove the causes of all disturbance of the Peace in the Far East and to safeguard general interests as contemplated in the agreement of alliance between Japan and Great Britain. In order to secure firm and enduring peace in Eastern Asia the establishment of which is the aim of the said agreement, the Imperial Japanese Government sincerely believe it to be its duty to give advice to the Imperial German Government to carry out the following two propositions:

'(1) To withdraw immediately from Japanese and Chinese waters the German men-of-war and armed vessels of all kinds, and to disarm at once those which cannot be withdrawn;

'(2) To deliver on a date not later than September 15th, to the Imperial Japanese authorities, without condition or compensation, the entire leased territory of Kiaochow with a view to the eventual restoration of the same to China.

'The Imperial Japanese Government announces at the same time that, in the event of its not receiving by noon of August 23rd an answer from the Imperial German Government signifying unconditional acceptance of the above advice offered by the Imperial Japanese Government, Japan will be compelled to take such action as it may deem necessary to meet the situation.'

On the expiry of the time limit, no reply had been received from the German Government. War was declared on the 23rd, and Kiaochow was blockaded on the 27th. The army of Japan landed in Shantung on September 2, and with the assistance of a few British regiments from India and Wei-hai-wei, captured Kiaochow on November 6, 1914.

With these few dates in mind, let us proceed to discuss the question of the liability of leased territory to attack in the event of the lessee being at war with a third Power (the lessor being neutral).

It should be first emphasized that, in spite of what international lawyers say, lease is different from cession; and territory held on lease is not under the dominion of the lessee State. It may be true that the latter intends to acquire a place in the sun by cession, but that, with due regard for outward appearances, he is compelled to disguise his intention under the mild form of lease. Many legal acts have behind them intentions which are not exposed in the documents relating to them; but law courts can only be guided in their judgements by what is clearly written down. It is not the business of judges to inquire into the intention, which is often beyond the range of human investigation. So it is true that in diplomatic transactions, treaties are the only instruments binding on the parties concerned. To go beyond them and consider the motives of the signatories is not only novel to the traditions of diplomacy but impossible in the nature of things.

Whatever the intentions of Germany may have been when she obtained from China the lease of Kiaochow and the right of free passage for her troops in a zone of 50 kilometers surrounding it, she did not receive from China a piece of territory as an integral part of the German Empire. It is

expressly stated in the treaty that both in the zone and in the leased territory, China reserves her rights of sovereignty. What she conceded is the permission to exercise these rights during the term of the lease. The territory remains Chinese, but its administration is delegated to Germany for ninety-nine years.

The delegation has its extent as well as its limit. The extent is defined in the treaty by an article to the effect that China 'abstains' from taking any measures, or issuing any ordinances, 'without the previous consent of the German Government' and 'especially from placing any obstacle in the way of any regulation of the water-courses'.

These restraints on her part are necessary, in order to enable the lessee to fulfil his duty without 'any possibility of conflict',[1] but apart from them, China has her position as the territorial Sovereign unimpaired. She is fully entitled to negotiate with the German Government on any course that she is prepared to take; and subject to its approval, she is authorized to issue orders and enforce laws on the leased territory and in its surrounding zone—an authorization that would be contrary to the usages of international law, had the status of Kiaochow been legally the same as that of Hanover or Dresden. Rules of the law require that one State should on no account interfere with the internal affairs of another independent State; and China would have broken the rules, had she considered Kiaochow as outside her dominion and yet exercised her rights of sovereignty affecting its internal administration, as she has done in establishing Customs Houses, in regulating steam navigation, and in maintaining the same tariff in Kiaochow as in other parts of the country. Moreover, while Germany

[1] Art. 3, Treaty of 1898.

is granted the right to construct fortifications on the leased territory for the protection of buildings and the harbour, China reserves to herself the right to station troops and take military measures in the zone in agreement with the German Government. In fact, the fortifications are not erected by the lessee Power with the object of protecting himself against the lessor or any other State. They are erected as an integral part of the military measures of the lessor, and in the event of the latter being at war with another State, they could be taken over and operated by him to defend his dominion. It is stated in the treaty that it is 'to increase the military readiness of the Chinese Empire' that Germany is granted the right of free passage for her troops. In other words, like a Power allied to Germany, China introduces German troops into her territory in order to make them co-operate with her own soldiery. Whether the introduction is effected of her own will or forced on her, is a matter that does not affect our argument.

Judging from the legal status of Kiaochow so far explained, the conclusion can be easily drawn, that for purposes of war and neutrality it should be considered as a part of the Chinese and not of the German territory. Early in this war, China was neutral, and by the rules of international law 'the territory of neutral powers is inviolable'. If Kiaochow was attacked, it was a violation of the neutrality of China.

The attack was, however, excused on two grounds. The first ground is that as Port Arthur and Dalny, which had been leased to Russia, were attacked during the Russo-Japanese War, the attacks on Kiaochow only followed a precedent. The fallacy of this is manifest, when it is remembered that, during that war, the whole of Manchuria (east of the Liao-

Ho River), of which the leased territory was only a small part, was delimited by the Chinese Government as a belligerent zone within which she did not enforce neutrality. As the whole province was liable to attack, there was no question of sparing a corner whether it was leased to Russia or not. Manchuria, though Chinese territory, was in Russian occupation, and for reasons of military exigency it had to be considered as a possession of the occupant.

Moreover, there is no law to govern all cases of lease. Each is governed by its own treaty. The treaty which leased Port Arthur and Dalny to Russia is different, both in nature and scope, from that by which Kiaochow is leased to Germany. According to the former, China was not allowed to station troops of any kind within the boundary of the leased territory. Batteries and barracks were erected for the convenience of the army and navy of the Tsar, without any pretence of making them serviceable to the territorial sovereign. As to its administration, she was denied the right to establish customs houses or to do anything in the nature of government. She was even denied the right to make suggestions for the welfare of Chinese inhabitants. To all intents and purposes, Port Arthur and Dalny were Russian territory and were therefore liable to attack. The position of Kiaochow is altogether different; and no parallel arguments can be deduced from the attack on the former Russian leased territory to justify the attack on Kiaochow Bay.

The second ground is that it is permitted by the law of lease and usufruct that in the event of the tenant misbehaving himself and endangering the safety of his neighbours, the latter have the right to oust him from the land in his occupation. On the outbreak of war in Europe,

Germany was making military preparations behind the ramparts of the Tsingtau forts and fitting war vessels in the Kiaochow harbour with a view to raiding the naval stations and merchant ships of the Allies. Under these circumstances the Allies, of whom Japan was the leading Power in the Far East, were fully justified by the principle of self-defence in launching an attack on the German forts in order to destroy the enemy plan before it was matured. Consideration for self-preservation may compel a Power to attack neutral territory, when it is necessary for the sake of securing her own safety; but according to the rules of international law laid down in the Caroline case, the extraordinary action is only justified when the necessity for it is 'instant, overwhelming, leaving no choice of means and no time for deliberation'. With the limited number of ships and troops under the command of the German Governor of Tsingtau, when the ultimatum was issued, it was not likely that the danger to the Allies was so instant, so overwhelming, and so urgent as to require an immediate attack.

As to the choice of means, the lessor was responsible to the Allies for the good conduct of the lessee. Should the latter misuse or overstep his power, the Allies have the right to demand from China that she should intervene to prevent him from giving them cause for anxiety. In dealing with a Power like Germany, which had already been characterized by unscrupulousness, it was imperative for the Allies to offer, and the Chinese to accept, advice which would ensure their mutual safety against the enemy. But one searches in vain for any hint to China from Japan or any other Allied State before the issue of the ultimatum.

It is argued that the Allies were fully convinced of the futility of a negotiation between China and Germany,

because it was beyond the capacity of the Chinese Government to enforce their demands by arms, and the Germans would yield to no other pressure. This is true, but it affords no excuse for the Allies to overrun Chinese territory. With their willingness and readiness to assist less advanced States, they should have given China moral support to make her demands effective. A reasonable time-limit should have been accorded to her to give the negotiation a chance of success, before the Allies issued an ultimatum. In case Germany was obstinate and ignored China's treaty rights, they should have helped her to maintain her neutrality by lending her an armed force, but should not have proceeded to the attack of Kiaochow without her previous knowledge or consent.

After the operations had begun, it was useless to discuss the legality of the attack. The die had been cast and further developments were watched with burning interest. The attack itself, let it be repeated, was a breach of China's neutrality, but during the progress of the campaign further breaches were committed. Assaulting the Tsingtau forts from their rear, the infantry, the cavalry, and the artillery of the Japanese army landed at Lungkow, at the northern boundary of the Shantung promontory, at the south side of which Tsingtau is situated. The distances from the landing-place to the forts and to the outer outskirts of the zone within which German troops had a right to free passage were respectively eighty and fifty miles. If the territory within the zone was open to the passage of Japanese troops, because its neutrality had been compromised by the partial use made of it by the Germans, there was nothing to justify their landing and marching on the neutral territory outside the zone. To the protest of the Chinese Government, Japan

pleaded military necessity. 'Necessity knows no law'; and it is not within my power to prove that the necessity existed. Suffice it to say that the British contingents which co-operated with the Japanese did not land outside the zone, but lawfully and carefully observed the difference of the absolute and the 'compromised' neutrality by landing at Laoshan Bay within the zone.

'Rules of neutrality', says Sir Francis Piggott, 'have been framed to meet ordinary circumstances, of which fighting is one; they are hardly applicable to abnormal circumstances without modification.'[1] If this interpretation is accepted, China, who was impotent and unwilling to fight for the maintenance of her neutrality, could not do otherwise than acquiesce in its violation. Moreover, it is generally agreed by authorities on international law that neutrals are only expected to fulfil their duties 'with due diligence' and 'with the best means at their disposal'; and they are not legally bound to undertake anything beyond their power. When the landing of Japanese troops on neutral territory had already become an accomplished fact, China, following the precedent during the Russo-Japanese War, in which fighting took place on her soil but was restricted to the west of the Liao-ho River, proceeded to double the extent of the original 50-kilometre zone within which German troops were free to pass—that is to say, to delimit an area having Tsingtau as the centre with a radius of 100 kilometres. Within the circumference of this circle the belligerents were free to take military action, and China was not responsible for any damage to their life and property.

Against this extension of war zone Germany immediately protested to the Chinese Government. In reply, the latter

[1] *The Nineteenth Century*, March 1915.

pointed out that the extension was only ordered after and not before the landing of Japanese troops. 'Were China to use force against the Allies and oppose the landing, she should, in order to be impartial, also use force to oust the Germans from Tsingtau, because that place is still Chinese territory, Germany having no right to make military preparations.' As she could do neither, she had to accept a situation created by *force majeure*; and in the words of the official dispatch to Germany, the extension was 'dictated by a correct appreciation of her peculiar position and a proper estimate of her duty to herself'. In short, though the zone was extended, she still hoped to confine belligerent operations within a limited area. The anomaly of her position was manifest, but a nation that was not too proud, but too feeble, to fight had to pay a price for its neglect of military preparation.

Contrary to her hopes and expectations, the violation of China's neutrality did not end with the extension of the zone. The invading army was on the march and was determined to observe no proclamation of neutrality. It was not deterred by the boundary lines marked by chalk on the sand any more than by the issue of a paper proclamation in Peking. The invaders had made their plans, irrespective of the protests of the Chinese Government; and it did not make the faintest difference to them when the Chinese Foreign Office had handed to the Japanese Minister in Peking a very reliable and accurate map showing the boundaries of the extended zone—a map that would be posted to Tokyo for record but not issued to the Commander in the field.

From Lungkow, the Japanese troops marched to Tsinanfu, 200 miles from the nearest point on the circumference of the extended zone and 60 miles again from the leased

territory at Tsingtau. In the district through which they passed, requisition without compensation was made on the peaceful Chinese inhabitants, who were pursuing their occupations without the slightest notion of what was going on. It was immaterial whether their vocabulary was sufficiently large to enable them to read a proclamation issued by the Japanese Commander to the effect ' that they must afford aid to the Japanese troops in all matters to the utmost of their ability ; that any one daring to disobey military orders or to injure any member of the Japanese Forces would be at once arrested and severely punished without mercy ; that this is not an empty threat ; and that all must strictly obey ' ; but they had to supply carts, boats, cattle, horses, fuel, grain, and anything that the invaders thought useful or necessary. According to the rules of land warfare, it is permissible for belligerents to make requisition with compensation on hostile citizens, but there is no precedent in this enlightened age for making it without compensation on the subjects of a neutral State in their own territory.

Tsinanfu, towards which the invading army was marching, was the terminus of a railway line to Tsingtau. Acting on the pretext of ' military necessity ', Japan seized the railway, and the seizure was hardly justifiable, as it was private property. According to the rules of international law, private property on enemy territory may be requisitioned (but not confiscated) for military emergency, but no precedent could be found to justify a seizure of enemy property in neutral territory. Moreover, though its capital was subscribed by Germans and its management entrusted to Germans, the railway was partially a Chinese concern, as she retained the right to appoint directors and purchase it from the Germans after a certain number of years from its

opening to traffic. Rules or protests were, of course, of no avail, when the invader subordinated everything to military necessity. Strategy may have made it necessary for the Japanese to occupy the line, but strategical plans are not always formulated in accordance with the rules of civilized warfare.

So far, I have dealt with the legality of the attack on the German leased territory and the incidents that have arisen in the course of the campaign. Let us now examine the status of Tsingtau after its capture from the Germans.

With the triumphal entry of the Anglo-Japanese contingents into the city on November 24, 1914, Tsingtau came under the occupation of Japan; Great Britain, having done her duty in assisting the Japanese to oust the Germans, withdrew her troops and abstained from interfering with its administration. The German Governor of Tsingtau, together with his troops, was conveyed to Japan as a prisoner of war. All German Government property was confiscated and private property seized. Japan has not only replaced the German administrative system and personnel by the Japanese, but has also changed the names of the Bismarck and the Moltke Hills near Tsingtau to those of some Japanese heroes. Trade is flourishing, and the harbours and docks are working at full speed for the benefit of Japanese ships. All the Germans formerly employed by the Chinese Government on the Customs Service have now been replaced by Japanese, and the railway line is still occupied and worked by Japan. In addition to the temporary acquisition (pending the settlement of the Peace Conference) of all these rights and privileges formerly enjoyed by Germany, she has stationed troops in many parts of Shantung outside the 50-kilometre zone and has established civil administration

centres along the Tsingtao-Tsinanfu railway line. These actions are neither in accordance with treaty obligation nor justified by her claim to inherit German rights. They are merely encroachments on the sovereignty of China and not excusable on any ground.

Before discussing the future status of Kiaochow, it will be well to consider who has the power to sanction the transfer of a lease. It has already been stated that the leased territory remains under the dominion of the lessor, and that the lessee has only the power of carrying out its administration for the duration of the lease. It follows that the lessee has no right to alienate the territory held under lease. In the treaty with Germany it is definitely expressed that Germany engages at no time to sub-let the territory leased from China to another Power, 'and should she at some future time express the wish to return Kiaochow Bay to China before the expiration of the lease, China engages to refund to Germany the expenditure she has incurred at Kiaochow'. In truth, the lease is untransferable, and Germany, though vanquished by Japan, has no right to transfer Kiaochow to the victor.

Realizing this situation, Japan concluded a treaty with China a few months after the capture of Tsingtau, to the effect that:

'The Chinese Government agrees to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests, and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the province of Shantung.'

In this connexion it should be said that it is unreasonable to tie the hands of China by making it obligatory on her

to give 'full assent' to any arrangement that may be arrived at. The conditions of the lease on which she agreed in 1898 are not necessarily acceptable to her at the present time. The opportunity of altering them should not be denied her when a new treaty is negotiated to authorize a transfer of the lease to another Power. Moreover, as a territorial sovereign having full power to dispose of her own property, she is entitled to cancel the lease and to repossess herself of the territory, in case the lessee is prevented from exercising the delegated power over it till the end of the stipulated term of the lease. She is under no obligation to grant Japan any of the advantages formerly enjoyed by Germany. There is no force in the argument that, as Japan has shed her blood and treasure in the capture of Kiaochow from Germany, she is entitled to some compensation from China. The attack on Tsingtao was uninvited, and, in the domain of law, created a breach of China's neutrality. On that account, China is not only free to refuse any grant of compensation to Japan, but is entitled to some compensation for the violation. If Japan wants compensation, she must demand it from Germany and not from China.

In addition to the above treaty, the following notes were exchanged between China and Japan on May 25, 1915:

'When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

'1. The whole of Kiaochow Bay to be opened as a commercial port.

'2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.

'3. If the foreign powers desire it, an international settlement may be established.

'4. As regards the disposal to be made of the buildings and properties of Germany, and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.'

The proposal of restoring Kiaochow to China confirms the pledge of Japan as expressed in her ultimatum to Germany, but it will be erroneous to infer from it that she gives up her interest in the territory of Kiaochow. On the contrary, the operation of the four conditions will enable her to acquire all the rights, privileges, interests, and advantages formerly enjoyed by the Germans without openly proclaiming herself their successor.[1] According to a map prepared by the Japanese Government, a concession under her exclusive jurisdiction as contemplated in condition 2 will include the Customs, wharf, harbour, railway terminus, and the land to be reclaimed from the seas adjoining the properties now owned by the Asiatic Petroleum and the Standard Oil Companies, who have already been offered

[1] In a leased territory the lessee may station troops and erect fortifications, but in a concession he may not. It is not clear whether Japan will withdraw her troops and remove her batteries in Kiaochow, when it is converted into a Japanese Concession, but in the Agreement between China and Japan signed September 1918, Japan only undertook to withdraw her troops from the districts along the Tsingtao–Tsinanfu Railway and not those in Tsingtao. If she may still station troops in Tsingtao, when it is restored to China its position will not differ from that of a piece of territory leased to Japan. In fact, Japan would in that case profit by making Tsingtao her Concession and not her leased territory, because she would enjoy all the rights for an indefinite period, whereas under the lease she would only enjoy them till the end of 1997, when the original lease to Germany will expire.

substantial compensation with a grant of other pieces of land; and this exclusive policy of Japan will not be interfered with by the establishment of an International Settlement, because she is to have the prior right of designating the Concession under her own control. The Settlement will, as it is proposed, occupy the residential quarter of the town and, in the words of Mr. Robert Young, it 'will wither away and die of inanition', as it is deprived of all commercial facilities and means of producing revenue. Its prospect is made even more hopeless by the fourth condition which, stipulating for further agreement between China and Japan on the disposition of the German Government properties, would transfer to Japan with the nominal consent of China all the important works in the International Settlement such as the slaughter-house, the electric light, the Government administrative offices, schools, courts, and prisons. Moreover, 'large purchases of former German property in the residential section are already being made by the Japanese, who, by the time an international settlement was formed, would be in a position to control it as well as that apportioned as an exclusive Japanese Concession'.[1]

The control of Kiaochow by Japan will be further strengthened by her control over the two railway lines—one from Tsinanfu to Shunteh in the province of Chili on the Peking-Hankow line, and the other from Kaomi to Hsuchow in the province of Kiasgsu on the Tientsin-Pukow line—the right to finance and construct which was granted to her by China in September 1918.[2] Although the terms

[1] *Contemporary Review*, March 1919. 'Japan at Kiaochou and the Peace Conference', by Robert Young.

[2] See below, Appendix IV.

of the contract for these railways have not as yet been concluded, it may be reasonably presumed that Japanese engineers and accountants will be employed and that Japanese creditors will have control over the lines and their properties during the currency of the loans. Chinese Directors will probably be appointed, but in practice they will be outwitted by the Japanese and will have no voice in the management or construction, and the whole concern will not differ from a concession to Japan. The concessionaire will be in a position to control the rich coal and iron districts through which the railways pass, and may at some future date, under one pretence or another, demand from China the right to exploit them. Kiaochow will then be supplied with mineral produce, as well as innumerable other articles, from the hinterland for the convenience of Japanese merchants and shipowners. Japan may be generous enough to open the railway traffic to merchants of other nationalities on the same terms as to those of her own, but if the South Manchurian experience is repeated, she will subsidize her own citizens by secret preferential treatment which is not only denied but even unknown to merchants hailing from other lands. Under these circumstances it will be easy to bring Shantung into her sphere of interest and thence to penetrate into the neighbouring provinces, and finally to realize her ambition of controlling the coastal districts of China.

In view of these dangers, the Chinese delegates to the Peace Conference brought their case relating to Kiaochow to the Council of Ten on January 25, 1919. Above all, they asserted that Kiaochow should be restored to China because it was inhabited by the Chinese and was an important district in a province which was the cradle of the Chinese

civilization. Further, they refused to acknowledge the legal validity of the treaties and agreements with Japan affecting Shantung, and fortified their attitude by the following arguments :

(1) China had declared war on Germany since August 1917 and had abrogated all her treaties with Germany, including the Lease Convention and the railway and mining agreements. As the treaty of 1898, on which the treaty signed and the notes exchanged with Japan in 1915 relating to Shantung are based, had now ceased to be valid, it followed that everything derived from it was *ipso facto* void.

(2) Even if it was said that this argument was of no avail, it could be easily seen that the treaty of 1915, relating to Shantung, and the conditions concerning the restoration of Kiaochow had only been accepted as a temporary settlement, because it was implied in the treaty itself that the whole question would be examined at the conclusion of the war. China had agreed to give her full consent to any agreement that might be arrived at, but had not undertaken not to participate in the negotiations preceding the agreement. Now that she was authorized to appear at the Peace Conference to plead her own case, she had the right to determine the conditions on which, and on which alone, she would give her full consent.

(3) China demanded direct restitution of Kiaochow by Germany and not through the agency of Japan. This procedure, she believed, was only proper in view of her belligerency against Germany and would save the trouble of taking two steps to make the transfer, when it could be effected by one.

(4) In presenting this demand she was not ignoring

the sacrifice made by Japan in capturing Kiaochow from Germany; but, on legal grounds, she could not confer on Japan any compensation because the attack, as already explained, constituted an act of violation of China's neutrality. To cultivate goodwill and friendship with Japan she would open Kiaochow of her own free will to Japanese trade, and establish an International Settlement for the convenience of her subjects as well as those of other States. There was no need of a Concession under the exclusive jurisdiction of Japan, because a special area, with its government in the hands of the foreign residents, would afford the Japanese all the security and comfort which they desire.

(5) Although the agreement on the Tsingtao-Shunteh and the Kaomi-Hsuchow Railways had been concluded after August 1917 and was not affected by China's action against Germany, it should be cancelled, because it was only concluded by China in order to induce Japan to withdraw her troops from the districts along the Tsingtao-Tsinanfu Railway, and to abolish her Civil Administration centres. The intrusions of Japanese soldiers and officials had outraged the feelings of the Chinese in the Shantung province and had nearly brought about a riot which, as the Chinese Government feared, might have produced very serious consequences on the relations between the two countries. The agreement was then accepted by China as a means of temporarily removing the causes of popular dissatisfaction, pending the settlement of the Kiaochow problem at the Peace Conference. It should be remembered that Japan had originally no right to station troops or establish Civil Administration Bureaux in Shantung, and if she was not requested by China to pay a compensation for this usurpation of rights, she should

at least withdraw and abolish them without demanding anything from China.

The Japanese delegates not only refused to accept the arguments of the Chinese, but they were infuriated at the fact that the case was brought before the Conference at all. Pressure was brought to bear on the Government in Peking, asking it to instruct its delegates in Paris to change their attitude towards Japan. Had it not been for the intervention of the American Minister in Peking on behalf of China, Japan might have served her another ultimatum. The whole American delegation in Paris, from President Wilson downwards, appreciated the points of view of the Chinese and the justice of their claims. Great Britain and France, while they were sympathetic with China so far as the principles of justice and nationality were concerned, failed to see their way to help her because they had been engaged to support Japan by the secret treaties signed in February 17 and March 1, 1917,[1] which, it is needless to say, had till then never been notified to the Chinese delegates.

In April 25–30, 1919, when the question of Kiaochow was brought before the Council of Four for final decision, people in authoritative quarters, especially the Americans, were very hopeful that it would be decided in China's favour. By this time, the Italian delegation had withdrawn from the Conference owing to the disputes on Fiume, and Japan, taking advantage of the embarrassing situation of Mr. Wilson, threatened to follow the example of Italy, should she not be given satisfaction. Moreover, she warned the Council that, as she had already been defeated on the proposal of racial equality, she could not possibly acquiesce in another reverse without injuring her honour and pride.

[1] See below, Appendix III.

Great Britain and France had always reminded Mr. Wilson of their support to Japan according to the terms of the secret agreements, and it was feared that should Japan be allowed to withdraw, they would align themselves against the President. The consequence would probably be a break-up of the Conference, and at a time when the whole world was longing for peace such a break-up would be too dreadful an event even for a man so strong-willed as Mr. Wilson.

On May 1, 1919, the Chinese delegates were verbally informed of the outline of the decision, transferring, 'without any reservation', all the rights formerly belonging to Germany to Japan.[1]

In Section VIII, Part IX, of the Treaty presented to the German Delegates on May 14, it is provided that

'Germany renounces *in favour of Japan*, all her rights, title and privileges—particularly those concerning the territory of Kiaochow, railways, mines, and submarine cables—which she acquired in virtue of the Treaty concluded by her with China on March 6th, 1898, and of all other arrangements relative to the Province of Shantung.'

The Chinese delegates protested against the decision, but offered on May 24 to sign the treaty with a reservation regarding the clauses relating to Shantung, so as to defend their rights and yet not to make an open breach with the Allies. Informed on June 24 by the Secretary-General of the Conference that no reservation was permitted, they suggested 'that they should sign the treaty while making

[1] The Japanese delegates verbally undertook to restore voluntarily the territory of Kiaochow and the rest of Shantung Peninsula in full sovereignty to China. It remains to be seen whether Japan will carry out her undertaking. Even if she does, it does not make any difference, for reasons explained on pp. 248–50.

a separate declaration in writing that such a signature should be subject to a reservation which would enable China, after signing, to ask for the reconsideration of the Shantung question '. This proposal was again rejected. The Delegation, however, later sought to secure a modification of wording ' so that the signing of the Treaty by the Chinese might not be understood as precluding China from asking at a suitable moment for a reconsideration of the Shantung question '. This last attempt at compromise again failed and the delegates decided not to appear at Versailles on June 28, 1919.

It is held, however, that China should have signed the treaty under all circumstances so as to accede to the Covenant of the League of Nations, which will be in the position to redress the injustice inflicted on her by the Peace Conference. China has faith in the League, but she fears that as the first business of the League will be to enforce the Peace Treaty, it will enforce the clauses relating to the Shantung settlement, should she sign the treaty without reservation. There is no hope that the Executive Council of the League would revise or cancel these clauses after they have been legally accepted by China. In 1915, when she was forced by an ultimatum to accept the Japanese demands, she was advised by some allied diplomats that she would have her grievance adjusted by the Peace Conference, should she consent to sign a treaty with Japan giving her satisfaction for the moment. At the Conference, she was told that a treaty once signed must be enforced, irrespective of the circumstances under which the signature was got. She took this painful lesson into her heart and is now convinced that she will be in a stronger position to appeal to the League should she be free of any legal tie. Moreover, she is hoping

to join the League by signing the treaty with Austria, of which the Covenant of the League will also form the opening section.

## § 2. *China in the War*

The attitude of China towards the present war before her entry into it was easy to explain. To the bulk of the Chinese, a Briton did not differ from a Turk, or a German from an Italian ; and a struggle between different European countries was a matter of little interest. As for the members of the Government, they were convinced that they ought to maintain an impartial and strict neutrality, as they had no more grievance against one belligerent than against the other. Great European Powers seemed to them to be all warlike, as evinced in their several wars with China and in the diplomatic pressure they had brought to bear on her.

No doubt it was clear to them that in August 1914 Great Britain and France were unprepared for war and Germany ready for it, and that the Allies unsheathed the sword to defend their own territorial and political rights, whereas Germany was out for vanity and gain. But China, it was thought, was too distant from the aggressor to be affected by his ambition, even if he realized his vision of a European domination. Moreover, all European Powers had always presented a more or less united front in their dealings with China, and there were serious objections against her joining one Coalition of Powers against another.

With the progress of the war, a steadily increasing interest was taken by a small number of intellectual Chinese in its causes and effects, and in its political bearings on the future relations of China with other States. As happened in many other countries, the military party, who were mostly trained

in Germany, admired the efficiency and thoroughness of her army and were fully persuaded of its invincibility. The admiration was turned into fear of German revenge when a warning came from some politicians on the side of the Allies that for considerations of honour and justice as well as of material interests China, if she ever departed from neutrality, was bound to join the Allies against the Central Powers.

In November 1915 it was reported that President Yüan Shih-k'ai approached the Allies with a proposal that China should make a declaration of war in their favour. The report was promptly denied, but those who were qualified to speak said that the proposal was made and discussed, but that it failed to be carried out owing to the opposition of Japan.

It was not till the rupture of diplomatic relations between Germany and the United States in February 1917 that China once again considered the desirability of entering the war. The President of the United States called upon all neutrals to join him in a protest against the unrestricted submarine warfare announced by the German Government on February 1, 1917; and China answered by dispatching a note to Germany, asking her to abandon the policy of a ruthless warfare on sea and warning her that, should the request not be complied with, she would be compelled to sever the existing diplomatic relations with her. In view of the importance of the note and the moral that it carried with it, it is worth while to quote it in full:

'A telegraphic communication has been received from the Chinese Minister at Berlin transmitting a note from the German Government dated February 1st, 1917, which makes known that the measures of blockade newly adopted

by the Government of Germany will, from that date, endanger the navigation of neutral merchant vessels in certain prescribed zones.

'The new measures of submarine warfare, inaugurated by Germany, imperilling the lives and property of Chinese citizens to even a greater extent than the measures previously taken, which have already cost so many human lives to China, constitute a violation of the principles of public international law at present in force; the tolerance of their application would have as a result the introduction into international law of arbitrary principles incompatible with even legitimate commercial intercourse between neutral states, and between neutral states and belligerent powers.

'The Chinese Government, therefore, protests energetically to the Imperial German Government against the measures proclaimed on February 1st, and sincerely hopes that, with a view to respecting the rights of neutral States and to maintaining the friendly relations between those two countries, the said measures will not be carried out.

'In case, contrary to its expectations, its protest be ineffectual, the Government of the Chinese Republic will be constrained, to its profound regret, to sever the diplomatic relations at present existing between the two countries. It is unnecessary to add that the attitude of the Chinese Government has been dictated purely by a desire to further the cause of the world's peace and to maintain the sanctity of international law.'

In fact, it was only a Confucian courtesy characteristic of Chinese diplomacy that prompted the Peking Government to lodge a protest before the formal severance of diplomatic relations. It was evident to every one that China, with her military weakness and her financial stringency, was not in a position to dictate to the German Government. Protests from a secondary Power had hardly any weight in the Federal Council at Berlin; and it was fully anticipated that China, having taken a bold step in denouncing a German policy,

was fully prepared to make a further move which would lead to her entry into the war.

On March 10, a month after the dispatch of the Chinese note, the following reply was received from the German Government :

'The Imperial German Government expresses its great surprise at the action threatened by the Government of the Republic of China in its Note of protest. Many other countries have also protested, but China, which has been in friendly relations with Germany, is the only State which has added a threat to its protest. The surprise is doubly great, because of the fact that, as China has no shipping interests in the seas of the barred zones, she will not suffer thereby.

'The Government of the Republic of China mentions that loss of life of Chinese citizens has occurred as the result of the present method of war. The Imperial German Government wishes to point out that the Government of the Republic of China has never communicated with the Imperial Government regarding a single case of this kind, nor has it protested in this connexion before. According to reports received by the Imperial Government, such losses as have been actually sustained by Chinese subjects have occurred in the firing line, while they were engaged in digging trenches and in other war services. While thus occupied, they were exposed to the dangers inevitable to all forces engaged in war. The fact that Germany has on several occasions protested against the employment of Chinese citizens for warlike purposes is evidence that the Imperial Government has given excellent proof of its friendly feelings towards China. In consideration of these friendly relations the Imperial Government is willing to treat the matter as if the threat had never been uttered. It is reasonable for the Imperial Government to expect that the Government of the Republic of China will revise its views respecting the questions.

'Germany's enemies were the first to declare a blockade

on Germany and the same is being persistently carried out. It is therefore difficult for Germany to cancel her blockade policy. The Imperial Government is nevertheless willing to comply with the wishes of the Government of the Republic of China by opening negotiations to arrive at a plan for the protection of Chinese life and property, with the view that the end may be achieved and thereby the utmost regard be given to the shipping rights of China. The reason which has prompted the Imperial Government to adopt this conciliatory policy is the knowledge that, once diplomatic relations are severed with Germany, China will not only lose a truly good friend but will also be entangled in unthinkable difficulties.'

By the time this reply was delivered to the Chinese Government efforts had been made to overcome the opposition in the country to a war policy. The military party, who had hitherto been firm against any departures from neutrality, were persuaded and convinced of the advantages likely to be obtained from a formal adhesion to the Allies, and of the improvement of China's international status which would be brought about by the foundation of a new foreign policy. Having secured the approval of the Senate and the House of Representatives, the Government proceeded (on March 14) to hand the German Minister his passport, to seize the German ships, to capture German Concessions in Hankow and Tientsin, and to dismiss all German employees in the Chinese Government service. For reasons of internal disturbance which have already been alluded to elsewhere in this volume [1] war was not declared till August 12, five months after the severance of diplomatic relations.

Apart from the causes stated in the official note of protest

[1] See *supra*, pp. 25–6.

above quoted, it is essential to emphasize, in the first place, that the moral influence of the United States was largely responsible for the policy of the Chinese Government towards Germany. For many years China had looked upon the United States as her disinterested friend, willing to extend a helpful hand in her time of need. Towards her, the policy of the State Department at Washington had always been so planned and directed as to assist her in her regeneration as a great modern State. On many occasions, whether it was a question of the maintenance of the open-door policy or of the refunding of the Boxer indemnity, the Government of the United States had manifested its sympathy and goodwill. The consequence was that, while the call of Mr. Wilson on all neutral States to join him in a protest against the German ruthlessness might have been taken by other States as merely a formal announcement of his policy, it was seized by China as an opportunity to show her appreciation of his friendliness and to assist him in upholding the rights of less advanced States like herself.

Secondly, scientific inventions had destroyed the distance between different countries, and in welfare and interest they had become interdependent. The Great Wall of China had long been crumbled down ; and whether she wished it or not, she had to discard her traditional policy of isolation, which was no longer tenable in this age of steam travel and electric communication. ' During this unprecedented international struggle, it was not permissible to her to forget the world and to remain content by herself.' Moreover, the war as it had been developed in 1917 was no longer a quarrel between different European States for national aims. It was a conflict to decide whether the fundamental principles of morality and justice, which Confucius taught as much

as Western prophets, should survive. As a nation, China had existed only on her moral strength, and at a time when the world was threatened with moral bankruptcy, she, though impotent, could not afford to accept the situation with acquiescence and indifference.

Above these moral considerations, she had her own interests to safeguard. As a neutral, she was placed in a position different from that of other neutrals. The military operations of Japan against the German leased territory at Kiaochow was, as already explained, prosecuted on her own soil; and the future disposition of the territory would form a subject of discussion between the two opponent States concerned. A neutral Power was as a rule denied an entrance to the conference between belligerents; and yet, in view of her vital interest in the settlement of Kiaochow, she was most anxious to have her grievance heard by the Conference, and it was natural that she should have seized a suitable opportunity to ensure to herself the right to participate in the peace negotiations.

Apart from the after-war problems, China had to consider her interests directly the war was declared. The patriotism of the different antagonistic factions in the country might be aroused and their unity achieved by confronting them with some external danger which would compel them to sink their differences in regard to home affairs. When China was threatened with internal revolt, it was thought that if it were possible to interest the Parliament and politicians generally in a war with Germany and divert their attention from internal quibbles, it would consolidate the position of the executive in Peking. Moreover, the mercenary army, which had always threatened to revolt, would probably be turned to good use, and spare the Government the trouble

of keeping it quiet by bargain and by bribery, had it been possible to dispatch it abroad as a Chinese contingent to help the Allies. Unfortunately none of these hopes were realized.

In any case, China has benefited financially by her declaration of war. She has suspended the payment of the German share of the Boxer indemnity and of all the principal, interest, and dividends due to German investors. In recognition of her sympathy as well as of her material help, the Allies have also agreed to suspend the payment of their shares for five years. A Government that was sorely in need of money could not but make itself stable and secure by the financial help so generously extended by the Allies.

It would be erroneous to say that China entered into the war merely from motives of self-interest. She did not shirk her duty as a belligerent, but was ready to render any service within her power. She has a standing army of about 800,000 men, who were formerly trained by European officers. It may be deficient in heavy guns and in aeroplanes, and may be inexperienced, but it is certain that the Chinese soldier is courageous, brave, and obedient. He is the best raw material out of which the ideal fighter can be made, provided he is properly commanded. It was therefore suggested, as soon as China declared war, that a few divisions of her army should be shipped to Europe, carrying with them nothing but uniforms and, probably, rifles. They should be first trained by British and French officers in the rudiments of modern warfare and then be placed on garrison duty and on the lines of communication behind the front, and after a few months join the fighting line. Guns and munitions of all descriptions would be entirely supplied by the Allies, as neither the shipping space nor the productive capacity

of the Chinese arsenals would make it possible to supply the contingents with equipment from Chinese sources. This proposal, though seriously discussed, was never carried out, as shipping difficulties did not even permit the conveyance of a few divisions of men, stripped of every equipment except clothing. Moreover, the speedy entry of American troops into the field made it superfluous to transport and to train Chinese soldiers.

China is, however, a big reservoir of man-power. If she did not help the Allies with troops, she supplied them with labourers, who are almost as important as combatants in the operations of war. Their numbers and their contracts, giving terms of employments and wages, will be dealt with in the next section, as their importance, their future, and their influence on the Western labour world justify a discussion in detail.

In many other ways China has also helped the Allies. She placed the German ships seized in her harbours, amounting to about 50,000 tons, at the disposal of the Allies. She exported many articles—cotton, steel, iron, copper, cereals, and poultry—to Europe both for the prosecution of war and the sustenance of civil populations. Had shipping difficulties been less great, she would have exported a larger variety of articles and in greater quantity, as the warehouses in the different treaty ports were full of cargoes waiting for ships. It was a common procedure for China to export her wheat to America so as to release a corresponding quantity of American wheat for export to Europe, as the distance between Shanghai and San Francisco is shorter than that between Shanghai and any European port, and avoids the passage through the dangerous Mediterranean.

To do her share in shipbuilding for the Allies, China made

a contract with the American Government to build four cargo vessels of 10,000 tons each in the Kiangnan Dock and Engineering Works at Shanghai, with the option of eight additional steamers of the same tonnage. The British Government also placed orders with the Shanghai Dock and Engineering Company to construct three standard merchant ships of 5,000 tons each. For the construction of these ships, materials were mostly supplied by China, except steel, which had to be shipped from America and Europe (the steel produced in China being so limited in quantity that, after a certain amount is exported to Japan by virtue of a previous contract, little is left for home consumption). The chief engineers were British and American, but the construction was done by the Chinese.

To complete the recital of China's help to the Allies, it is necessary to point out that many of her citizens joined the French and the American Armies to fight for the common cause, and many of those resident in British colonies enlisted in the Dominion Armies. To help them indirectly, many Chinese took up work in different hospitals in Great Britain so as to release men for the army. Not least important was the fact that thousands of Chinese sailors worked on British merchantmen in spite of the peril and danger of the sea. Many of them fell victims to the submarines, but this did not deter others from enlisting. In fact, it was stated by some of them that, at a perilous time when their service was most needed, they could not possibly let themselves be daunted by disasters. It may reasonably be said that without them British shipping, while already short in tonnage, would have been still more restricted by the difficulties of labour.

On the financial side of the war, China, being a borrowing nation, could not render any assistance. But a number of

wealthy Chinese subscribed handsome sums of money to British War Loans and charities. In Hong Kong and in the Straits Settlement, the Chinese colony was always ready to respond to the appeal for funds to provide an aeroplane or an ambulance for the British Army. Moreover, the 'Tank drive' and the American Red Cross Day not only secured subscriptions in many Chinese towns from foreign residents but also from a large number of natives, who invested as much as a few millions. The sum may appear insignificant to Europeans, but when it is remembered that the average income of the Chinese is less than one-tenth of that of the American, and that capitalists are few in China, it is evident that the very fact that they subscribed at all is indicative of the interest in the war.

Had China been provided with a bigger and more efficient army, she would probably have taken a more active part in the war. Or had she been better developed on economic and industrial lines, she would have been a much more useful ally. But as things were, she had to be content with the humble share she contributed to the prosecution of the war. Moreover, the internal chaos and the instability of government made it impossible for her even to use such means as were at her command. But to the Allies, it was a substantial gain that a nation, representing one-fourth of the human race, and depending for its existence for five thousand years on moral force and moral force alone, should have lent them her moral weight and rendered them her material assistance, however small. A judgement passed by this ancient civilization in favour of the Allies was a good asset to them in the sense that it testified to the righteousness of their cause and raised the confidence of their troops. The moral to the material force is, as Napoleon said, like three

to one, and it cannot be denied that the adhesion of China reinforced the moral front of the Allied Powers.

As to herself, she only hoped to improve her international status at the conclusion of peace. It was a pity that the strife of different political factions in the country deprived her of the opportunity of setting her own house in order, while Europe was engaged in an unprecedented war. But at all events it is important to remember that her entry into the war was the signal of a new foreign policy according to which she would not only discard her tradition of isolation, but also throw in her lot with other countries in the world. There is reason to believe that, whatever may happen to her internal régime, the policy, once announced, can hardly be recalled.

### § 3. *Chinese Labour*

It has already been mentioned in the last section that China's contribution to the prosecution of the present war consists largely of her supply of labour. At the outset, let it be said that the employment of Chinese labourers in other countries is not a recent innovation. Ever since the beginning of the last century, thousands of them have emigrated to Australasia, to South America, and to the United States. But till the present war, with the exception of those in South Africa, they all went abroad of their own accord ; no preparation had been made by their employers to ship them from China. In the case of the South African gold mines, the number of labourers required was so huge and the need so instant that the British Government had to sign a convention with China to lay down general conditions of employment and to appoint consuls and other officials to carry out the details of supervision. They were

specially recruited and shipped from China at the expense of the mining companies; and the Chinese immigrants, unlike those in other countries mentioned, were sure to get employment according to the terms of their contract signed before their embarkation.

The employment of Chinese labourers by Great Britain and France in this war is modelled on the South African experiment. It differs from it, however, in the fact that when the Allied Governments began to recruit labourers in China, the latter was unable to sign any convention, as she was precluded from doing so by her neutrality, which, though it did not prevent her citizens from enlisting in the service of any belligerent, did not permit her Government to render to one belligerent any assistance denied to the other. The contract signed between the labourer himself and the British or the French recruiting officer bears no sign of the sanction of the Chinese Government, which was denied any power of intervention except that of protecting its citizens.

France, the first of the two to introduce the Chinese, began to recruit them early in 1916; but Great Britain did not draw upon this Asiatic reservoir of man-power till the summer of 1917. Both the British and the French contracts stipulate that the labourers recruited can on no account be employed in military operations. They can only be employed on industrial and agricultural works, such as railways, roads, factories, mines, dockyards, fields, and forests. In the French contract, it is said that they may be employed in Algiers and Morocco, as well as in France; whereas the British contract is silent as to the locality of employment. But to the best of my knowledge, France has never employed them in her colonies, and Great

Britain has never introduced them in large numbers into any region other than the zone occupied by her army in France. The French contract differs from the British because France may employ them in private as well as public works, so long as their employment is sanctioned by the French War Office; whereas Great Britain only employs them in the army, and therefore only on public service. It is, in fact, in consideration of the objections of the Labour Party and the Trade Unions that the British Government agreed to confine the sphere of activities for the Chinese to the military zones in Flanders and in France. The few hundred Chinese labourers in Birmingham and other industrial towns entered into an agreement with their employers quite independently of those employed in France.

By the terms of the French contract, employment is for five years, but may be terminated by the employer after three years. The daily wage for an unskilled labourer is 1 franc 25 centimes, and that for a skilled one 1 franc 50 centimes. These wages are liable to increase, if an unskilled labourer has become a skilled one, or a skilled one has improved his skill. But, on the other hand, if a skilled labourer is not up to a certain standard of efficiency after a month's trial, he will be degraded into an unskilled one and have his wage reduced accordingly. In addition to these wages, every unskilled labourer receives a monthly allowance of 35 francs for his family or other dependents, and every skilled one 40 francs. On their embarkation from China, all labourers, skilled or not, receive a bonus of 50 francs.

During illness or holidays, a labourer is only entitled to a daily compensation of 25 centimes, but in case of serious symptoms which require his repatriation according to

medical advice, he will be shipped back to China at the expense of his employer. In the event of his death not caused by accident within six months from the time of signing his contract, his family will be paid a compensation of 135 francs ; but after six months and before the expiry of the contract, the compensation will be increased to 270 francs. No compensation will be paid, if the death takes place during the returning voyage unless it is caused by belligerent action.

So much for the French contract.

The British contract is identical with the French in broad principles, but differs from it in details. Employment is only for three years and is terminable by the employer after one year or six months' notice. The daily wage for an unskilled labourer is 1 franc and his family allowance 10 dollars (Chinese). For a skilled labourer, the wage varies from 1 franc 50 centimes to 2 francs 50 centimes and his family allowance from 13 to 30 dollars.

Every fourteen labourers form a section in the charge of an under-ganger who receives 1 franc 25 centimes a day. A ganger in charge of four sections receives 1 franc 50 centimes a day. A foreman in charge of 16 sections or 4 gangs receives 2 francs as his daily wage and 15 dollars as his monthly family allowance. Foremen and assistant interpreters in charge of 16 sections or 4 gangs have their daily wages respectively fixed at 2 francs and 2.50 francs, and their family allowance at 20 and 30 dollars. The interpreter-clerks acting as assistants to engineers in charge of 240 men receive 5 francs a day for themselves and 60 dollars per month for their family or other dependents. For interpreters and all kinds of labourers, the bonus paid on their embarkation from China is 60 dollars, and the com-

pensation is $150 in the case of death and $75 in the case of injury.

The compensations and the wages may not be adequate, but housing, food, clothing, fuel, medical attendance, and passage to and back from France are all provided free. In these times of high cost of living, an unskilled Chinese labourer, with his family allowance and all other things included, costs on the average 6 or 7 francs a day, a figure that corresponds to the average wage of a British or French manual labourer in pre-war times. The skilled Chinese labourer costs about 8 or 9 francs a day, a figure considerably below the average wage received by a skilled European before or during the war. But if the Chinese are classified under the same category as the labour and the engineer corps of the British or the French army, their remuneration is considerably better than the daily pay of a French soldier and almost as good as that of a British private.

The bulk of the Chinese are unskilled and mostly engaged on loading and unloading. They are physically strong and capable of carrying weights which are considered in the West to be beyond human strength. In their manner of handling lifts and pulleys they are neat and systematic; and the monotony of their work is much lessened and modified by their cheerful expression and fondness for music. The large number of skilled are all engaged in highly technical work. Some of them are employed on the repairing of tanks and others on the manufacture of aeroplanes. To them, the most up-to-date machinery is a novelty that excites their curiosity. Some of them have already been employed in modern factories in China and now seize the unique opportunity of improving their skill and of understanding management on a large scale which

finds no parallel in their own country. Their output is high and their zeal is marvellous. To them, as people with capacity to learn, it is not so much the wages that are attractive as the new experience they acquire and the new atmosphere they find themselves in. During my inspections both behind the front lines and in the interior of France, many of them have come up to narrate their ambitions and their schemes for the industrial development of their fatherland when they return.

Those who had been carpenters or blacksmiths before they came are found most useful in France. In docks and on railways, they are indispensable to the two armies for the maintenance of existing works and the construction of new plant. New roads have to be made and new buildings have to be erected after the retreat of the enemy, and it is often the Chinese who act as pioneers to pave the roads for motor transport and for gun carriages. They not only bridge a gap between the rear and the front, but they sometimes drive engines to convey troops with their food and equipment.

During work, both the skilled and unskilled Chinese are more or less mixed up with British and French labourers. But as regards housing and eating, entirely separate provision is made (as the barrier of language and the difference in the ways of thinking have so far made it impossible for them to cultivate much mutual understanding). They have their own quarters or camps in which they sleep, forty or so to a hall. They are provided with Chinese food, cooked in every camp or factory by a Chinese chef, who is chosen from among them and specially designated for this pleasant work of supplying Celestial dishes modified by the use of European oil and the absence of many Chinese delicacies.

Both in the French factories and the British camps which I have seen, labourers are given meat every day, boiled or fried (but never roasted) in Chinese fashion. Rice takes the place of bread in one or two meals in the day; for the rest the Chinese enjoys bread and butter as much as any Briton or Frenchman.

The family having already been provided for by separate allowance, the labourer spends his daily wage on his own comforts and luxuries. As a rule, he wears a blue coat, and, when at work, blue shirt and trousers; but with his accumulated wage, he often purchases some worn-out overcoat from a British or French soldier to decorate himself. New blankets are procured by himself in addition to his official supply of bed-clothes. He has even got the habit of using Parisian toilets and Swiss watches. In canteens which I visited, very expensive cigarettes and fountain pens were on sale for the exclusive consumption of the Chinese. In many ways, they live at greater expense than the British or the French soldier; and in their rest camps or recreation huts they play harps and violins, which are typical musical instruments in North China and are said to be of Mongolian origin. Not wearied or worn by daily work, they sing songs in the evening in the approved style of the Chinese drama by prolonging their breath as if they were on the Chinese stage. When holidays come, they pile up timbers, paint them in red and blue, and make them into a shrine, in front of which they worship the spirits of their ancestors who would travel across many oceans to respond to their reverence and remembrance. At the new year, they all volunteer to make lanterns and subscribe money for a feast in which their commanding officers also join. Lanterns in the shape of tigers and

dragons are hung on the gates of their camps and are carried in procession to different parts of the front.

Labourers, in going to their work and back, all march in fours. They make a great show, which it was my fortune to see. The marching columns present a very mixed appearance: some of the men are in Chinese bonnets, some in helmets, and others in officers' service caps. The colours of their clothes are as diverse as those of the corn and vegetables in the field through which they pass. There is indeed no monotony about them. Each man has his own colour and taste.

They are not in uniform and not under military discipline. On the march, they smile and smoke and shout at officers without observing any distinction of rank. They are interested in their work and seem to trouble themselves with nothing else. Happiness and content are the great sources of their national strength as well as often of their easy-going character, and are reflected in their manners when they march.

A drawback I have discovered is that they are all commanded by British or French officers, as the case may be. There is no Chinese commander or any other officer among them higher in rank and in responsibility than the interpreter clerk. This arrangement is explicable. As China was still neutral when the first contingents of the Chinese labour corps were shipped to Europe, she was prohibited by international law from appointing their officers. But since her entry into the war she should have taken over the command to herself so as to make the Labour Corps a distinctly Chinese force, working side by side with the Allies. The difficulty however was that, in taking over the command of her own contingent, she would have

been obliged to pay all the expenses in connexion with it. As her financial position does not permit her to take this responsibility, she has to content herself with the appointment of a few supervisors to inspect different camps from time to time, and with the delegation of her diplomatic and consular officials as agents in communication with the British and the French War Offices.

Most of the officers in command of the Chinese speak some Chinese or have some previous experience of them. Many of the British and the French missionaries in China have come back to act as interpreters or other commissioned officers. Long residence in the country and intimate knowledge of the people may make them eager to promote the welfare of these labourers; but the missionaries so qualified are few, and the so-called Chinese-speaking officers do not speak the language with fluency and proficiency. The consequence is that misunderstandings often happen which could have been easily avoided by a more competent management. But it must be admitted that complaints are exceedingly few, considering the number of labourers employed; and those which occur are not at all of a serious nature.

When the armies withdraw from the field and soldiers return to civilian work, the Chinese will have the right to be shipped back.[1] But there is nothing in the contracts to compel them to return. Many of them may like to stay, and the French contract provides that, in the event of their remaining after the expiry of their stipulated term of employment, they are still entitled to free passage when they ultimately return. The question will then arise

[1] In April 1919, only a few hundred have been shipped back, the rest still remaining in the field.

whether their stay will arouse opposition from the labour organizations in Great Britain and France.

So far as England is concerned, the result seems to be pretty clear. The Chinese have only been employed in the field and have never landed in this country. It is probable that in view of the strong opposition of the Trade Unions against alien labour, the British Government will take care not to let the Chinese leave France, if they do not go home. In that case, they will drift into French and not into British employment.

In the interior of France the Chinese have been employed on works, many of which will survive the war. The shortage of labour in France will be serious after the conclusion of peace, especially in devastated areas where reconstruction has to be done. As the opposition of the French labour organizations to the Chinese has never been great, it is likely that the French Government will prolong and even extend the employment of Chinese.

The antagonism between European and Asiatic labour, which has been serious in the past in America and Australasia, is to a very large extent explained by the fact that the Chinese undersell natives by working longer hours for lower wages. The safeguard against this undercutting is to employ the Chinese at exactly the same wage for the same number of hours as French labourers. This, however, does not solve the difficulty. Given the same wage and the same number of hours of work, the Chinese, with their industry and toil, will always produce a larger output than Europeans. Moreover, they are able to perform many services which are beyond the capacity or below the dignity of European workmen. Further, although the Chinese are only too pleased to work for the same wage, there is no

guarantee that employers will not underpay them by taking advantage of their loose organization and their ignorance of the conditions of French labourers.

To find a way out of these difficulties, it will be well to provide that the Chinese should organize themselves into unions or guilds, the leaders of which should be made responsible for their observance of laws and regulations passed by the French labour federations. Assuming that the bulk of the Chinese cannot take part with French manual workers in the framing of laws and regulations, their leaders should be given the right of direct participation in doing so. The Chinese, as proved by past experience, are quite capable of organizing guilds and willing to submit themselves to the authority of leaders. To prevent any possibility of molestation, the French Government should apply to them the same laws of protection as those for its own people ; the Chinese Government should also exercise very rigid supervision over the labourers, and, if necessary, should see that they are not misrepresented by their leaders. If these precautions are taken, the antagonism between Europeans and Asiatics, though not eliminated, may be reduced to a minimum.

On the part of China, it is not desirable to let her citizens settle abroad. The painful experiences of those in Jamaica, in South America, and in other countries, do not encourage their emigration. Moreover, as she is beginning her industrial development on a modern scale, the labourers who have gained some experience in France will be invaluable to her as pioneers in modern works. It is indeed urgent that she should utilize their experience by setting up new factories where they may work and improve their knowledge just acquired abroad. Their value to the country is all

the greater, as they have not only gained some industrial experience, but also some knowledge of the English and the French languages and of the elementary geography and history of the world taught to them in their camps by the Y.M.C.A. and by the French Sino-French Educational Society.

### § 4. *Ascendancy of Japan in the Far East*

The ascendancy of Japan in the Far East is due to two causes. In the first place, it is due to the preoccupation of the Western Powers in the war; and in the second, it is due to the policy pursued by Japan and her treaty States for many years before it. The victory of the Japanese army in the wars with China and Russia, and her alliance and agreements with Great Britain, France, and the United States, all enabled her to assume the dominant position in the Far East in times of need. Since the war began, Japan has fully utilized her opportunity; and with the European and, to a less extent, the American Chancelleries too much occupied to interest themselves in China, she has asserted her power and prestige to such an extent that she now takes precedence over almost all other States in the Council of the foreign Diplomatic Corps in Peking. It is no exaggeration to say that, without her approval and consent, Europe and America will find it difficult to launch any new policy in connexion with their transactions with the Chinese Government.

Let us now examine the privileges acquired by Japan in China during the past four years.

On January 15, 1915, the Japanese Minister in Peking presented to President Yüan Shih-k'ai a series of demands classified under five groups and consisting of twenty-one items. On May 7 of the same year, China, under the pressure of a Japanese ultimatum, accepted the demands as

modified and revised in the conferences between the representatives of the two Governments. The chief difference of the revised from the original form of the demands is due to the withdrawal by Japan of the fifth group, which consists of the following items :

'(1) The Chinese Central Government shall employ influential Japanese advisers in political, financial, and military affairs ;

'(2) Japanese hospitals, churches, and schools in the interior of China shall be granted the right of owning land ;

'(3) Inasmuch as the Japanese Government and the Chinese Government have had many cases of dispute between Japanese and Chinese police in settling matters which have caused no little misunderstanding, it is for this reason necessary that the police departments of important places (in China) shall be jointly administered by Japanese and Chinese, or that the police departments of these places shall employ numerous Japanese, so that they may help to plan the improvement of the Chinese Police Service ;

'(4) China shall purchase from Japan a fixed amount of the munitions of war (say 50 per cent. or more) that are needed by the Chinese Government, or there shall be established in China a Sino-Japanese jointly worked arsenal. Japanese technical experts are to be employed and Japanese material to be purchased ;

'(5) China agrees to grant to Japan the right of constructing a railway connecting Wuchang with Kiukiang and Nanchang and Chaochou ;

'(6) If China needs foreign capital to work mines, build railways, and construct harbour-works (including dockyards in the Province of Fukien), Japan shall be first consulted ;

'(7) China agrees that Japanese subjects shall have the right of missionary propaganda in Buddhist China.'

It is easy to see that, had these demands been accepted, Japan would have acquired preponderating influence in many branches of Chinese administration ; would have

controlled the Chinese army and its equipment; would have converted the maritime province of Fukien into her sphere of interest; and would have sent a large army of missionaries and school-teachers, ostensibly for the propagation of a cult which was imported into Japan from China two thousand years ago, but actually to introduce agents of the Japanese Secret Service into every corner of China, so as to give the Japanese Government a chance to make further demands in the event of trouble arising with the natives. The persistent refusal of the Chinese Government to consider the fifth group of demands, together with the sagacity and moderation of the Japanese Elder Statesmen, caused them to be withdrawn, but it is worthy of remark that in the note from Japan to the European Powers and the United States, giving a detail of her demands, this fifth group was omitted; and that it was even denied by her when the Powers were furnished by China with a copy of the Japanese note as presented to her President. It is believed by some that Japan did not expect China to accept this fifth group, and inserted it merely as means to coerce her to agree to other groups of demands. Others believe that, as Japan expected China to accept all the demands before other Powers had time to examine them, she thought it easier to persuade them to maintain an attitude of indifference towards the negotiations by not disclosing to them the whole truth. Both speculations are probable, but it is now established beyond doubt that, had it not been for the intervention of the British and the American Governments in favour of a modification of the demands, this fifth group would have had to be accepted, and the independence of China would now have become a thing of the past.

The first group of demands accepted by China relates to

the disposition of the German concessions, interests, and rights in the province of Shantung. This has already been dealt with in the section on 'The Kiaochow Question'; and it needs only to be mentioned here that, in addition to China's consent to agree to any arrangement that might be arrived at between Japan and Germany at the conclusion of peace, she has declared to the Japanese Government that 'within the province of Shantung or along its coast, no territory or island will be leased or ceded to any foreign Power under any pretext'. She also agreed that several places in the provinces should be opened to foreign trade, and that the Japanese capitalists would be approached for a loan in case China herself should build the railway from Chefoo or Lungkow to connect the Kiaochow-Tsinanfu line, when Germany has abandoned her right to finance the Chefoo-Weihsien line. In short, Japan has not only inherited all the rights formerly held by Germany, but has also extended them so as to make her position predominant.

So much for the first group. The second group in its original form stipulates that the consent of the Japanese Government must be obtained whenever permission is granted to the subjects of a third Power to build a railway, or a loan is made with a third Power for the purpose of building a railway, in South Manchuria and Eastern Inner Mongolia, the local taxes in the latter case being pledged as security; and 'whenever the Chinese Government employs political, financial, or military advisers or instructors in South Manchuria and Eastern Inner Mongolia'. These demands, if accepted, would have converted these two regions into Japanese possessions and would have closed their doors to all other Powers.

In the revised and finally accepted form of the demands

under this group, these conditions are waived, but Japanese subjects are accorded the right to reside and travel freely in South Manchuria ; to engage in business and manufacture of any kind ; and ' to lease land for commercial, industrial, and agricultural enterprises '. Although the whole of South Manchuria, except a few towns in it, has not been declared an open port, where alone such rights can be granted, a special provision is now made in favour of the Japanese; and it is doubtful whether the same advantages will be extended to subjects of other Powers by virtue of the most-favoured-nation clause. China, faithful to her treaty obligations, will no doubt deal with all aliens alike, but it may be beyond her power to enforce her orders in South Manchuria. Moreover, Japan, by her peculiar consular and administrative systems in South Manchuria, will always obtain some advantages for her own subjects which are denied to those of other States, irrespective of the treaties with China. At all events, Japan has acquired by treaty the preferential right over other States in the appointment of foreign advisers to the Chinese provincial Government in South Manchuria and in the negotiations of loans for the construction of railways in South Manchuria and in Eastern Mongolia.

The third group of demands is accepted in a note which is worded as follows :

' From the Chinese Minister for Foreign Affairs to the Japanese Minister in Peking : " I have the honour to state that, if in future the Hanyehping (Iron and Steel) Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said Company, will forthwith give its permission. The Chinese Government further agree not to confiscate the said Company, nor, without the consent of the Japanese capitalists,

to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese." '

It is beyond the scope of the present work to prove that coal and iron are indispensable to modern industry ; suffice it to say that it was the coal and iron in South Wales that made England the workshop of the world ; and it was the coal and iron in Bremen that gave Germany her industrial power. Japan, though industrially more advanced than China, is very poorly supplied with mineral deposits and can hardly exist very long as a modern industrial State, unless she is assured of an adequate and continuous supply of material with which to produce steam-power, to build ships, to manufacture her machinery, and to maintain her industry. Naturally enough, she looks for supplies in the country nearest to her ; and for fear of competition from China herself or from other countries that would open mines for her, she has employed her ingenious financial methods to get hold of the richest coal and iron fields in the Chinese Empire. The loan advanced by the Yokohama Specie Bank in 1912 to the Hanyehping Company, which, started by the Chinese as a purely Chinese property, was a combination of three businesses—the Han Yang Steel and Iron Works, the Tayeh Mines, and the Pinghsiang Collieries—gave a chance to Japanese capitalists to acquire the right to appoint an auditor and a few technical experts, who exercise a considerable amount of control over the whole business. As a condition of the loan, it is provided that the total output of the iron ores of Tayeh must be sold to the Japanese Government Iron Works at rates fixed biennially, but much below market price. The whole property of the Company was mortgaged to the Bank as security. The loan was to be redeemed by the annual delivery of iron ores and pig iron,

and the purchase money paid to the Company was to be deposited in the Bank, which has access to all its documents, letters, and records through the Japanese adviser (nominated by the Bank), and has the power to adjudicate the apportionment of the money so received to the payment of the proceeds and the repayment of the capital and interest on the loan. It has also acquired the preferential right to advance further loans. While the Bank exercises such strong control, it is difficult to see how it is possible to realize the provision in the loan contract that 'in case the profits of the company have become so large that, after deducting the dividend and bonus and setting aside reserve funds, there is still a surplus, the Bank shall agree to the proposal of the Company to redeem the full amount of the principal and interest of this loan, or any sum remaining unpaid at that time'.

The mines in Tayeh, according to a Japanese official report, are almost inexhaustible and will last for 700 years at the annual rate of production of 1,000,000 tons. The quality of the ore is as good as that produced in Germany or the United States. The introduction of more powerful furnaces would increase the existing rate of production at the Hanyehping Iron Works and improve the quality of their steel output.

In the districts surrounding the Tayeh mines there are many other mines, copper, lead, and zinc, which are not the property of the Company. Japan, in her original demands, requested that these mines should not be exploited without the consent of the said Company (ultimately that of the Bank). Though this demand is finally withdrawn, it is the duty of those interested in the industrial development of China to see that these mines do not fall into the hands of any monopolists, Japanese or other nationals, who desire to exploit them entirely for the benefit of their own

country, and deprive China of an adequate share in the consumption of coal and iron produced on her own territory.

At the present time, Japanese capitalists are very active in Peking and are endeavouring to extend their economic activities in every conceivable direction. In fact, it is said that since the acceptance by China of the Japanese demands the Government of Tokyo has changed its policy of open demand into that of peaceful penetration, in view of the loss to Japanese merchants caused by the boycott which the Chinese have maintained against them in revenge for their ultimatum. Conciliation has now replaced aggression; and the economic advantages procurable by this new policy are likely to be greater than those obtainable by a threat of war. To show the truth of this statement let us see the following table, which gives the titles and amounts of the loans recently advanced by Japan to China:

| *Title.* | *Amount.* |
|---|---|
| Hanyehping (new loan) | $2,500,000 |
| Kwangtung (Provincial) | 1,000,000 |
| Chiotung (Ministry of Communication) | 28,000,000 |
| Customs | 1,000,000 |
| Paper Mill (at Hankow) | 2,000,000 |
| Haingya Co. (Bank) | 5,000,000 |
| Fengtien (Provincial) | 3,000,000 |
| Hankow Electric Co. | 1,000,000 |
| Shih-Chen Railway | 5,000,000 |
| Canton Cement | 1,700,000 |
| Kwangtung (Provincial) | 1,500,000 |
| Kiran–Changchum Railway | 6,500,000 |
| Shantung (Provincial) | 1,500,000 |
| Conservancy (Tientsin Flood) | 5,000,000 |
| Advance of a big loan | 10,000,000 |
| Sundry | 6,449,000 |
| Kirin Forestry | 5,000,000 |
| Telegraph | 20,000,000 |
| Tsinanfu–Shunte Railway | 20,000,000 |
| Total | $124,149,000 [1] |

[1] The table is not complete, because no official figure has been published showing the amount of various loans.

In return for the sum, Japan holds in mortgage the Chinese Government properties on which the loans are secured. She has also acquired the right to build several railways in Shantung and in Manchuria, to exploit the forestry in the province of Kirin, and to open a bank (Hsinya Co.) which is authorized to act as an agent of the Chinese Treasury in rivalry with the Bank of China. The capital of the Bank is nominally equally divided into Chinese and Japanese shares, but as the shares allotted to China are supplied by the proceeds of a loan advanced by Japan, the whole capital is practically subscribed by Japan. Although it is provided that the management will be in the hands of a joint board on which the representatives of the two countries have equal powers, the practice will always be like that experienced in similar joint-enterprises, like the Yalu Timber Company, in which the control is entirely in the hands of the Japanese.[1]

In connexion with these loans, Japan appoints auditors, accountants, and engineers for railways, electric companies, and other industrial concerns over which they exercise control. They will not only promote the economic interests of Japan, but will also extend her political influence by making her investments a pretext for interference in Chinese administration. In case of default of payment of interest and principal they will probably claim the right to seize the property, although they are not justified in doing so according to the terms of contract. In times of internal disturbance, Japan may even claim the right to dispatch troops under the pretence of protecting the interests of her capitalists.

In addition to these loans, Japan has extended her political

[1] See chapter 8, pp. 230 et seq.

influence in China by ignoring the treaties. As an instance, it may be pointed out that, although it is stipulated in the 1915 treaty that Japanese subjects in South Manchuria and Eastern Mongolia will submit to the laws and regulations of the Chinese police, she has set up police boxes of her own in Manchuria. This police not only interferes in disputes between Japanese, but also in those in which one party is Chinese. In the province of Shantung, although it is avowed that Japan only desires to inherit the German rights and concessions, she has, in spite of the protest of the Chinese Government, established civil administration centres which find no counterpart under the German régime.

Treaties are necessarily brief and sometimes vague, and their effect on the parties concerned depends on their interpretation. The usual rule is that they should be considered not only in letter but in spirit, but Japan in many instances has interpreted her treaties with China in such a way that, so far as the letter is concerned, she commits no violation, but according to the spirit she secures to herself many advantages which were not anticipated when the treaties were made.

As co-belligerents in the present war, China and Japan have concluded a secret treaty relating to their intervention in Siberia. It will be recalled that shortly after the Bolsheviks came into power in Russia, the Chinese Government had already dispatched a large force to the Russo-Manchurian frontier to maintain order and to protect the Russians in Harbin and along the Chinese Eastern Railway. When the Allied intervention in support of the Czecho-Slovaks was about to be decided, China and Japan concluded a military convention for common action. The convention remains

secret, and its contents are not published, but according to an unauthorized report it contains the following articles :

(1) China and Japan shall take common measures of defence against German invasion and for the security of their position and power in the Far East.

(2) To realize the object of (1), the action of the two countries shall be considered from time to time by a Military Commission.

(3) The expeditionary force of China and her troops in co-operation with Japan for defence shall be organized and commanded by Japan.

(4) The two countries shall help each other in military equipment and arms.

(5) The two countries shall exchange their military maps.

(6) The two countries may act for each other in making plans and in moving, training, and directing troops.

(7) Japan may establish military posts and station troops in suitable localities in China.

(8) Japan may erect potteries on suitable spots in China.

(9) The Japanese army may issue military notes in China.

(10) The Chinese Government shall prohibit any actions injurious to the Japanese army.

(11) Japan may help China by loans to organize her finances in order to meet the requirements of the expeditionary force. The terms of the loans shall be concluded separately.

(12) Japan shall freely open the mines not yet conceded to her and also those already assigned to Japan.

(13) The arsenals and dockyards of China shall be controlled by Japan.

(14) Japan may temporarily control the Railways of China for the convenience of military transport.

(15) For the education of Chinese Army Officers, the Japanese language shall be used and Japanese teachers employed.

(16) Japan shall organize the Chinese Police system.

(17) In Inner and Outer Mongolia, in Manchuria and in Shantung, Japan has the power to establish administrative bureaux and to share with Chinese officials the administration of civil affairs.

(18) The above articles are valid in peace time.

(19) The above articles, after being agreed upon by the diplomatic officials of the two countries, shall be ratified by the two Governments before they become binding. But the two Governments shall be responsible for their permanent secrecy.

(20) If either party wishes to revise or terminate the above articles, six months' notice is necessary. Where one party does not agree to revision or termination, they shall continue to be binding.

I have no means to verify these clauses with the original text, but both the Chinese and the Japanese Governments have denied their accuracy. According to their statements, the Convention is only valid for the duration of the war and will cease to be in force as soon as peace is signed; but the rumour is current that, in spite of the conclusion of the armistice in Europe, the two Governments are prepared to renew the Convention. If it is confirmed, it will place China exactly in the same position as Korea before the annexation by Japan in 1911. It can only be hoped that there is no truth in the unauthorized report, and that neither the authorities in Tokyo nor those in Peking will launch such a momentous policy, which would inevitably destroy the independence of China.

### § 5. *The Policy of the United States*

The policy pursued by the United States towards China during the war is consistent with the principles which it has observed for many years in dealing with Far-Eastern problems. It will be recalled that in 1898 the policy of 'the open door' for China was enunciated for the first time by President McKinley; and that seven years later, when, after the Russo-Japanese War, Manchuria was threatened with annexation by Japan, the proposal to neutralize the railways in that province was suggested by Secretary Knox to the three Governments concerned, the Japanese, the Russian, and the Chinese. In 1908, President Roosevelt, with the motive of providing educational facilities for the Chinese, refunded the American share of the Boxer Indemnity to China on the condition that it should be used for the dispatch of her youth to the United States to receive a modern education. All these actions are prompted by the desire that China, in her efforts to introduce reforms and resist the aggression of foreign Powers, should be assisted both morally and materially, and have time to develop her resources and to establish her government on a solid base, with a view to taking a place in the 'Family of Nations' appropriate to the extent of her territory and to the glory of her past achievements.

Early in the war, President Wilson was afraid that the attack on Kiaochow by Japan might involve China in serious controversies with her neighbour, and that its capture might affect the *status quo* in the province of Shantung, in which Kiaochow was situated. As the head of a neutral State, he had, of course, no power to dictate to Japan or to speak for China, but interested in the peace and tran-

quillity of the Far East, he made an informal inquiry into the motives and plans of Japan. Having received a reply outlining the aims and limits of the Japanese military operations against Tsingtau, he reiterated them in a note throwing into relief the sincerity and goodwill with which he conducted his diplomacy with the most populous and yet the most impotent country in the East. The note, full of dignity, is worded as follows :

'The Government of the United States notes with satisfaction that Japan is not seeking territorial aggrandisement ; that Japan has promised to restore Kiaochow to China, maintaining the integrity of the Chinese Republic and acting in accordance with the Anglo-Japanese Alliance, the object of which is to preserve equality for the commercial interests of all the Powers in China ; and that in the event of disturbance in the interior of China, Japan would consult the United States before taking steps beyond the boundaries of Kiaochow.'

The fall of Kiaochow, as already noted, was followed by a series of demands presented by Japan to China. So far as written documents go, the United States Government kept a watchful and cautious attitude towards the negotiations between China and Japan, but it is believed that it extended wise counsel and friendly advice to both countries, asking the one to modify or withdraw some of the more serious demands and advising the other to accept proposals of no great consequence. It should, however, be emphasized that the United States had no power to intervene in a negotiation between two independent Governments and had to confine its activities within the limit allowed by its position as a Power interested in the integrity and independence of China, which it had pledged to maintain by treaties and understandings with Japan and other Powers.

For the first three years of the war, China, like the United States, was neutral, but the cordial relations that existed between the two States made many observers believe that she, in international matters, would always follow the example of the leading neutral on the other side of the Atlantic, and that should he enter into the war, she would probably take the same course. This belief was subsequently borne out, and the fact that China was the first neutral State to support Mr. Wilson, was clear evidence that, in spite of the absence of any treaty of alliance or other kind of understanding, China and the United States would take common measures of war and peace. It was further believed that the President of the United States, in asking China to join him, was not so much influenced by any expectation of military assistance from China as by the consideration that the adhesion of China to the Allied Cause would win for her the sympathy and respect of the Allies and would eventually improve her international status.

The question of war on Germany led to the outbreak of an internal insurrection which, as already explained, led to the Manchu Restoration and the armed conflict between the North and the South. President Wilson, alarmed by the situation, addressed the following note to China :

'The Government of the United States learns with the most profound regret of the dissension in China and desires to express the most sincere desire that tranquillity and political co-ordination may forthwith be established.

'The entry of China into war with Germany—or the continuance of the *status quo* of her relations with that Government—are matters of secondary importance.

'The political necessity for China is to resume and continue her political entity, to proceed along the road

of national development on which she had made such marked progress.

'With the form of Government in China or the personnel which administers that Government, the United States has an interest only in so far as its friendship impels it to be of service to China. But in the maintenance by China of one Central United and alone responsible Government, the United States is deeply interested, and now expresses the very sincere hope that China, in her own interest and in that of the world, will immediately set aside her factional political disputes, and that all parties and persons will work for the re-establishment of a co-ordinate Government and the assumption of that place among the powers of the World to which China is so justly entitled, but the full attainment of which is impossible in the midst of internal discord.'

This note, while it produced very little effect on the internal politics of China, created a stormy sensation in Japan. It was construed as an interference with the domestic matters of China, and its author was accused of indulging himself in an inappropriate act which he had always attempted to prevent Japan from doing. Further, it was contended that as Japan is the leading Power in the Far East and especially interested in the welfare of China, she should be consulted before any advice is extended to her neighbour. These contentions may be reasonable from the point of view of Japan ; but for the Chinese the Government of the United States is the only Government that is in a position to address such a message without arousing their suspicion, because they believe in its sincerity and goodwill, whereas a similar message from Japan, or a joint message signed by her and other States, would be taken by them as an attempt to interfere with their internal administration. Of all the treaty States, America is the

only one who holds no territorial concession in China and has proved not only by words but also by deeds that she is ready to help her; and in consequence she can do many things which it would be useless for other States to attempt.

Within a few months from the dispatch of the note, Japan sent a special Mission to America with a view to settling some of the outstanding problems, such as the supply of steel by America and the construction of ships in Japan, and to defining the policy of the respective Governments towards China. On November 15, 1917, the following note was exchanged between Secretary Lansing and Viscount Ishii:

'The Governments of Japan and of the United States recognise that territorial propinquity creates special relations between countries, and consequently the United States recognises that Japan has special interests in China, particularly in that part to which her possessions are contiguous.

'The territorial sovereignty of China nevertheless remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that, while geographical position gives Japan such special interests, it has no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in the treaties with other nations.

'The Governments of Japan and of the United States deny that they have any purpose of infringing in any way the independence or territorial integrity of China, and they declare furthermore that they always adhere to the principle of the so-called "open door" or equal opportunity of commerce and industry in China.

'Moreover, they mutually declare that they are opposed to the acquisition by any Government of any special rights or privileges that would affect the independence or terri-

torial integrity of China, or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.'

The essential point that makes this declaration different from the notes exchanged between America and Japan in 1909 [1] is that the former now recognizes the special interests of the latter in China, especially in regions to which the possessions of Japan are contiguous. It is obvious, however, that all States whose territories are adjoining have mutual interests, such as the control of cross-frontier traffic and the enforcement of rules of sanitation. A mutual protection of these interests by the States concerned is a condition of their normal life and needs no recognition by a third Power who is separated from either of them by a vast ocean. Moreover, if Japan has special interests in China, China has equally special interests in Japan, and a recognition of these interests should be extended to one of these two States as much as to the other. The note under our consideration, however, takes no notice of this mutual right: it says nothing of the special interests of China in Japan, while it grants recognition to the special interests of Japan in China. The explanation of this unilateral arrangement is found in the fact that neither America nor Japan meant by 'special interests created by territorial propinquity' those interests that I have just mentioned—interests arising from adjacent or conterminous boundaries—but those acquired by Japan, not because of the accidents of territorial contiguity, but because of her deliberate and aggressive policy of encroaching upon the territorial rights of China. Such are her interests in Manchuria, in Mongolia, in Shantung, and in Fukien. On the surface of it, the

[1] See *supra*, chapter 5, p. 172.

recognition of these interests by the United States is unfortunate because most of them are only granted by China under duress, and it is hoped that they will be taken away from the hands of Japan as soon as the Western Powers have time to redress the injustice inflicted on China by her neighbour, who has taken advantage of their preoccupation in the war.

The term 'special interests' is exceedingly vague, and it is not clear whether it is confined to those already obtained by Japan or can be extended to those that may be acquired by her in the future. Should it happen that Japan, in pursuance of her policy of expansion, exacts from China further territorial and economic acquisitions in regions contiguous to her leased territory or where her economic interests are already strong, would the Government of the United States be obliged to recognize her claims and support her demands? Such a recognition or support would not only reverse the friendly attitude which has characterized its diplomacy towards China, but would also be inconsistent with the noble ideals of right and justice so loudly pronounced by President Wilson. Moreover, there is almost no limit to the rights and interests Japan might claim under the phrase 'territorial propinquity'. The different islands that constitute the Japanese Empire stretch for a distance of twenty-eight degrees of latitude and are situated in a curved line parallel to the coast of China. Should she enforce her claims to the full extent, Japan might assert that the United States should recognize her special interests in all the coastal provinces of China—from Manchuria to Canton. In time, she would be able to control the greater part of China, as it has been her intention to do. Such a condition would be destructive

of the principle of 'the open door' and equal opportunity for the commerce of all nations. The only thing that has hitherto reconciled that principle with the possession of spheres of influence by different Powers is that, in all these spheres and in leased territories, the same tariff rates should be enforced as in any other part of China, and the most favourable treatment should be accorded to the subjects of all States. The experience in South Manchuria has, however, shown that, irrespective of what the treaties and laws may provide, Japan will always grant greater facilities to her own merchants in the spheres under her control than to those of other nationalities. This should have been taken into account by the United States Government when it exchanged the new note with Japan.

It is, however, a comfort to the Chinese that the American Minister in Peking, in his note to the Chinese Government informing it of the note mentioned above, translated the term 'special interests' by a Chinese phrase which in diplomatic usage corresponds more closely to 'special relations' than to 'special interests', indicating thereby that his Government did not attach much importance to the recognition of 'special interests', while it reaffirmed the policy of 'the open door' and 'equal opportunity' for all nations. In fact, it is believed in authoritative quarters that the conclusion of the new agreement alters nothing in the American diplomacy towards China, and that in the future when occasion arises, the State Department at Washington will assert its right to interfere with the movements of Japan by saying that they trespass on the limit of 'special interests' recognized by America in this agreement, which limit will be fixed by her in such a way as to affect as small an area as possible. These are

of course no more than beliefs, and it can only be hoped that they are not unfounded. For all these troubles China herself is to blame, because she is so neglectful of her military preparations that she cannot defend herself against the aggression of Japan and must allow herself to become an object of agreement between two other States without her participation in it. Informed of the conclusion of the new agreement, she declared that she was not bound by any agreement entered into by other nations, 'but that she consistently respected the rights which the treaties gave to friendly nations, including those relations between countries created by the fact of territorial contiguity'. The declaration was not out of place, but it was the voice of a weak man who, feeling aggrieved, was powerless to exact a remedy for his grievance. It is only through the restoration of her internal unity and the increase of her material power that China will maintain her independence without being guaranteed by any other Power, and abolish all the special rights which no other nation should enjoy on her territory.

## 10

# *Conclusion*

### § 1. *Political Outlook*

In this concluding chapter, it is proposed to discuss a few guiding principles which should be grasped by Chinese statesmen; but before doing so, let us summarize in tabular form the Constitutional plans suggested and recommended in the first part of this volume.

(*a*) A strong Executive, the President having power to dissolve Parliament, and a Cabinet responsible to Parliament, and yet in control of it;
(*b*) A nominative Senate through which the Executive can control the lower House;
(*c*) A lower House elected by direct election and on a franchise limited by educational and property qualifications;
(*d*) A Judiciary independent of the Executive;
(*e*) Devolution of enumerated powers on Provincial Governments;
(*f*) Centralization of Army Control;
(*g*) Separation of the central from the provincial finances;
(*h*) Representative Government in the province with its Governor appointed by the Central Government;
(*i*) Representative Government in the district (Hsien) with the magistrate appointed by the Governor.

The success of a Government depends as much on its system as on its administration. It may be exceedingly

pleasant for a practical politician to sing the verses of Pope :

> For forms of government let fools contest,
> Whate'er is best administered is best ;

but it should be noted that a public servant is as much influenced by his personal integrity and administrative ability as by the system of government under which he works. The system of government and the efficiency of administration are indeed interdependent, and he who drafts a Constitution should make it productive and promotive of honesty, vigilance, and straightforwardness on the part of administrators.

In the past the Civil Servants of China were recruited by a literary and classical examination which was open to all candidates, whether they were graduates of an academic institution or not. That system has been altered since 1906. At the present time, all candidates must be possessed of a diploma or certificate before they can appear before examiners, and the subjects set for examination are no longer classics and philosophy but modern history, geography, law, and science. There are two kinds of examination, one for candidates who aspire to posts of high grades and the other for those who content themselves with junior clerkships or junior positions in the provinces. The qualifications for these two kinds of examination are also different.

It is beyond the scope of the present work to inquire into the question whether Examination is the best means of enrolling capable administrators, but it should be mentioned that while China has very elaborate rules and regulations in regard to the entrance into her Civil Service, many persons in Peking and in the provinces are appointed

to responsible and lucrative posts without having passed an examination. They obtain their positions through their personal or family connexions with Cabinet Ministers or provincial governors and are called upon to perform administrative work without having shown their qualifications. Those who have been successful in examination, but who have no personal influence, are often unable to find employment, and are thus denied a chance to demonstrate their capabilities. It may be true that personal discretion in the question of appointment brings into the service persons who are competent for a post but whose ability cannot be tested by an examination, such as far-sightedness in planning and promptitude in decision, but a safeguard should always be taken against an abuse of the power of discretion.

It should be the rule that all the persons appointed must first pass an examination so as to ensure that they possess a certain amount of training. An exception might be allowed for those who are competent for certain posts, but whose qualifications are not discernible in an examination. To enforce the rule, and to prevent Cabinet Ministers and provincial governors from misusing their power when it is necessary for them to make an exception, it will be essential to have an independent judiciary and a critical legislature to exercise their functions without being afraid of offending executive officials. Moreover, as all appointments involve expenditure, it will be necessary to vest the control over finance in the hands of members of Parliament before there can be any effective safeguard against the favouritism and nepotism which are characteristic of Chinese bureaucrats. In fact, the corruption of Chinese officials, which is all the more marked when compared with

the integrity and honesty of the Chinese business man, will be much diminished if Parliament is authorized to verify the accounts of all departments passed by the Audit Bureau.

It will be argued by my critics that as the people of China are not yet well-educated enough to choose proper representatives and to control them when they are chosen, it will be impossible to elect a Parliament that can be entrusted with a control over Executive officials. This is true, but that difficulty only occurs at this elementary stage of representative government, and will surely not last. At present, there is no alternative to that system. The autocracy has been destroyed and there is no person in China so powerful and so capable as to be able to restore it. Even if it is possible to find such a person, he will not solve the difficulties of China. His influence and achievements will not survive his death, and the country will go back to the same condition as that in which he found it, when he ceases to rule. The history of China has been full of examples of such great men who introduce reforms by their own genius but fail to produce any permanent effect on the people. Unless personal rule is replaced by the establishment of representative government, there is no guarantee that the Chinese will progress at all times irrespectively of the character of those who happen to be at the head of their Government.

Representative government may be only successful at once when the conditions requisite for it are already in existence, but it is equally certain that after it is introduced, it will foster the growth of those conditions, even if they do not exist in advance. The constant call on the people to exercise their right to vote, and the liability of the

executive to Parliamentary censure, will not fail to incite public interest in politics and to put an end to public indifference to government. The Chinese at large may not be sufficiently interested in, and critical of, their Government at present, but they will gradually remove these defects when they have had a few years' experience of representative government.

The trouble with them during the past seven years is not that they have shown themselves incapable of representative government, but that they have not made up their minds regarding the system of government they will adopt and preserve. Among them there are many who are at one time advocates of representative government and at another supporters of autocratic rule. They have no fixed intention and often contradict their former principles. No system of government is possible if it is not believed in, and supported with perseverance and consistency.

The duty of Chinese patriots is not to change the system of their government when they find it difficult to work or unsuitable to the conditions of the people. Every system has its difficulties and drawbacks, and no change will get rid of them. The government of a country is a serious business, and its system should not be subject to constant alterations which would undermine its stability. The representative government which has been introduced should be preserved, and its unsuitability to the people will soon disappear if the plans I suggested, such as the devolution of enumerated powers on provincial authorities and the restriction on parliamentary powers, are adopted so as to give more opportunities to the people of educating themselves in politics and of preventing their representatives from misusing their mandate. With so intelligent a people

as the Chinese nothing will fail to be accomplished, provided they are determined and persistent enough to do it.

It may be suggested that, as the representative system of government is possible under a Constitutional Monarchy as well as under a Republic, it will be better for the Chinese to have an Emperor at the head of that system than to have a President, in view of the novelty, so alien to their tradition, of an elective chief of State. So far as expediency is concerned, I have no preference for a Republic, but I am opposed to any attempt to restore the Monarchy, when once it is destroyed. The form of government, like its system, should not be subject to unnecessary change, and good citizens should always support any existing form of government under which they may live.

Revolution is violent in its inception and serious in its consequences, and it should not be resorted to when it can be avoided. China has already witnessed too many revolutions during the past seven years, and it will be a hindrance to her progress and a disturbance to her tranquillity if another revolution attempts to alter the Republican form of government for the sake of restoring a Monarchy which will not necessarily produce better results. Moreover, the only argument that has been advanced in favour of a restoration, an argument based on the fact that the Emperor, by virtue of mysterious existence and heavenly pretence, is in a better position to command obedience than a President, is now no longer valid. The divine theory of the Throne has been discredited and repudiated, and the institution of the Empire will not revive the mystical, historical, and theocratical reverence and belief. Further, there is no person in China commanding sufficient respect and support from politicians and

military leaders to put himself on the Throne, and any attempt to occupy it by intrigue and bribery, as in the case of Yüan Shih-k'ai, would always be opposed by the intelligent section of the population. So far as one can see, there is no hope for the return of the Manchus or for any other person to wear the Imperial Crown, and provided China is made immune from the menace of Japan, which would destroy her existing form of government, she will pass through all her internal difficulties and firmly establish her Republican government to the satisfaction of both Chinese and foreigners.

### § 2. *Foreign Policy*

In discussing the foreign relations of China for the next ten or twenty years, it will be necessary to realize the changes that have taken place (1) in the attitude of the Chinese towards foreigners, (2) in the general policy pursued by the Western Powers towards her, and (3) in the relative positions occupied by the different States in the Far East.

(1) At the outset, it should be said that although China has not increased her military strength during the last twenty years, she has nevertheless witnessed a marvellous rise of national sentiment. Many Chinese of this generation are imbued with Western ideas of patriotism and nationality and are determined to sacrifice their life and comfort on the altar of their fatherland for the sake of maintaining its independence. Unlike their ancestors, they do not despise or hate all foreigners alike, but discriminate among them. They believe in the disinterestedness of the United States and in the sense of justice and fair-play maintained by Great Britain. To France, they are indebted for the inspiration resulting in the destruction of inefficient

despotism ; and they now look to her for guidance in solving their constitutional difficulties. Of Japan, they are generally distrustful and suspicious. They are openly hostile to her when she attempts to bring pressure to bear on the Chinese Government.

(2) Of American and European countries it may be said that they have no territorial ambition in the Far East and would refuse to trouble themselves with more possessions. They recognize the legitimate national aspirations of the Chinese and would support them in their efforts to realize them, as they do with other races. For themselves, they only want to develop their trade and to see the Chinese organizing themselves in such a way as to be able to consume more of their manufactured articles. The partition of China, which was much advertised at the beginning of this century, is now no longer possible, and, provided internal disruption is averted, the break-up of China is now a dream of the past.

(3) The critical point of the foreign relations of China is centred on her relations with Japan. First, it should be remarked that the ambition of Japan is to get rid of all the existing preferential rights and privileges enjoyed by Western Powers in China and to prevent her statesmen from coming under the influence of any European or American Government. 'Asia for the Asiatics' has been adopted as a motto by Japanese diplomatists, some of whom have even gone so far as openly to declare in favour of a Monroe Doctrine for the Far East. Moreover, the success of their arms in the war with Russia has filled the minds of many Japanese with a sense of pride and superiority, which in time has been developed into a will to conquer and subjugate the Chinese, who are militarily

inferior. The desire to control the supply of raw materials from China and the need of finding uninhabited land for the settlement of their surplus population have also turned their thoughts to the annexation of the Chinese Republic and its incorporation in the Japanese Empire.

To prove the accuracy of my statement and to dispel any suspicion of patriotic bias which might cause me to be over-anxious about the Japanese, it will be interesting to listen to the following description by an impartial Englishman :

'Japan's predominance in Eastern Asia has become the foundation of the national policy. "Nibbling at China" is no longer the propaganda of the military party alone : that policy has come to be universally accepted as leading directly to the realization of the nation's destiny. Korea, Manchuria, Mongolia, and, finally, the Middle Kingdom itself —this is the order of conquest in the minds of the Japanese, not only among the dreamers or the professional militarists, but among the rank and file of the people also.'[1]

Numerous schemes of conquest and annexations have been prepared by Japanese politicians and publicists, but I content myself with quoting two authors whose views correspond very closely with the policy pursued by Japan during the last four years. The first scheme is put forth by Mr. Uchida,[2] a member of the House of Peers, who was instrumental in bringing about the downfall of Korea by his intrigues with the Korean Government :

'Two points are most important in connexion with the solution of the Chinese question : (a) To cause the sovereignty over South Manchuria and Eastern Mongolia to

[1] MacLaren, *The Political History of Japan during the Meiji Era*, p. 375.

[2] In a pamphlet written for private circulation, but now published by the Chinese.

be entirely transferred to Japan, and (b) to hold the power of supervision and direction over China's finance.

'South Manchuria and Eastern Mongolia, under the sovereignty of the Imperial Government, should be made the base from which to control China proper. As to China proper, we should at first hold the real power of direction and make the control of its foreign policy and the management of its internal, financial, and military affairs our goal. To take all these matters into our hands at once would cause anxiety to the world, but the acquisition of the sovereignty over the two regions mentioned and of the power of direction would enable us to extend our influence by making a good use of them and finally attain our goal.

'After the acquisition of the power to supervise China's finance, we must decrease her army and armaments. In case of trouble arising from the disbandment of troops, Japan would be responsible for the dispatch of a force to suppress it. In that case, she would obtain the power of training the Chinese army and of interfering with the internal administration through the control of revenue.'

A more ingenious writer, Mr. Suniyama, has put forth the following suggestions,[1] which in point of time anticipate the secret military alliance concluded between China and Japan in 1918. According to him there are three periods in the conclusion of a Sino-Japanese Alliance.

'In the first period, Japan should conclude a special convention with China by which the former would render military assistance to the latter in case her territorial and sovereign rights are encroached upon. In return Japan would demand these privileges: (1) the appointment of Japanese financial advisers by the Chinese Central and provincial Governments; (2) the appointment of Japanese advisers to train the army and police forces in South Manchuria and Shantung; (3) the establishment of a Chinese

[1] In a published pamphlet under the title of 'Policy for Swallowing up China'.

fleet in Fukien with Japanese officers; and (4) the unification of Japanese and Chinese firearms and armament.

'In the second period Japan and China should conclude a defensive and offensive alliance. The Chinese army and navy should be trained and reformed by Japanese officers, and all plans relating to defence and military operations should be placed in the hands of the chief commander of the Allied armies, who will be Japanese.

'In the third period, an Eastern Asiatic Federal Empire should be established with Japan as its leader. The control of Foreign politics and military affairs should be in the hands of the Federal Government and internal affairs jointly administered by Japan and China.' [1]

In pursuance of the Imperialistic and jingoistic aims outlined in the above quotations, the Government of Tokyo, as detailed in the previous chapter, has forced on China the acceptance of the demands which confer on Japan preponderating influence in South Manchuria, East Mongolia, and other coastal provinces. She has taken advantage of the political differences between the North and the South and has supplied loans and arms to both sides, so as to prolong their struggle and to enable herself to fish in troubled waters. Finally, she has bribed certain undesirable elements in the country, placed them in power, and supported them with money to cover their administrative expense. So long as she makes the Government at Peking docile to her, she can exact from it all the concessions and privileges which she desires without openly committing any act of aggression.

Left alone, the Chinese will be too feeble to overcome the overwhelming pressure of Japan or to escape the traps

[1] 'Siberia will be included in the Federation, if it becomes independent of Russia,' says Mr. Suniyama.

laid by her financiers and diplomatists. They may resort to passive resistance as a means of self-defence, as they have boycotted Japanese goods, but that will not be effective enough to preserve their independence. With the subjugation of China by Japan, the latter will be possessed of the fertile land and rich mineral deposits on the Far-Eastern Continent. She may develop them more rapidly than China, but the access to them will be denied to European and American nations. The door of China will no longer be open, and the West may find it impossible to compete economically with Japan when she is able to supplement the advantage of her cheap labour with that of an abundant supply of raw materials. Further, there is the danger of the militarization of China by Japan, and that might lead to the destruction of Europe by an Asiatic invasion. It is therefore important that the relations between China and Japan should not be viewed as affecting those two countries only, but should be considered as concerning the future of civilization.

On moral grounds America and Europe cannot afford to be indifferent to the aggression of Japan. They have pledged themselves to the defence of the principles of justice for all peoples, and have recognized their right to lead an independent life and to develop themselves in their own way. Moreover, Great Britain, France, and the United States, in their treaties and exchanges of notes with Japan, have specifically undertaken to maintain the territorial integrity and political independence of China ; and it will be inconsistent with their traditional honour in keeping their treaty obligations if they tolerate such an unreasonable and indefensible aggression as the absorption of China by Japan.

Taking all these things into consideration, it is incumbent

on the American and the European Powers to come to the rescue of China. China is and will always be reasonable and considerate, and she does not expect them to do anything which she has no right to claim or which is beyond their power. But she considers herself entitled, for reasons explained in Chapter 9, § 1, to the restoration of Kiaochow Bay and to the cancelling of the Tsinanfu-Shunteh and the Kaomi-Hsuchow railways agreements with Japan, so as to prevent the province of Shantung from becoming a second South Manchuria, which will soon be the base of the Japanese Colonial Empire in Northern China. Further, she believes that the treaties and the exchange of notes, which would probably not have been forced on her had Europe not been preoccupied in the war, and the acceptance of which has already conferred on Japan many rights and privileges inconsistent with the policy of the open door and equal opportunity for the commerce of all nations, should be cancelled, or at least revised, so as not to grant Japan any strong foothold from which she could realize her ambition of subjugating China. These two questions—the restoration of Kiaochow and the abrogation of the treaties of 1915—have been brought to the notice of the Peace Conference in Paris by the Chinese Delegation, and although the first question has not been solved to the satisfaction of the Chinese and the second has not been touched at all, it is hoped that they will be considered by the Powers interested in China on another occasion.[1]

For the future, there are a few broad principles which Great Britain, France, and the United States should observe in their diplomatic and financial dealings with China.

[1] Probably the Executive Council of the League of Nations will consider them, as Mr. Wilson hoped.

First, they should realize that the principle of balance of power, which has guided their diplomacy in the past, is now not only discredited on moral grounds but has become so unreal as to be detrimental to their own interests. The acquisition of leased territory and the delimitation of spheres of interest were intended to check and balance the influence of different Powers, so as not to let any one of them dominate another; but events have proved that while all the Powers hold similar concessions and privileges with the purpose of maintaining the balance, one Power alone has, by virtue of its propinquity to China and of its willingness to resort to diplomatic intrigues, succeeded in making use of its concessions and privileges to dominate all other States combined. China may have no serious objection to the occupation of Wei-hai-wei and Kwang-chou-wan by Great Britain and France, who only use them as coaling stations and for no other purpose; but so long as they are there, Japan has an excuse for remaining in her leased territory in South Manchuria, and gradually extends her influence. Similarly, while the claims of Great Britain and France for preferential rights in the Yangtze Valley and in the Southern Provinces respectively have failed to bring them any special advantages, Japan, by her claims for special treatment in Manchuria, in East Mongolia, in Shantung, and in Fukien, has been enabled to build up her influence to such an extent as to exclude other Powers from economic activities in those regions. The power is no longer balanced, although the name remains. Moreover, the extinction of Russia and Germany, who had territorial ambitions in China when the principle of the balance of power was first adopted for the Far East, should make it superfluous for the European States to check and balance each other. The thing they should do at once is

openly to confess the ineffectiveness of the principle, to restore to China the territory held by them in lease, and to renounce their claims for preferential treatment in their respective spheres of interest. Having done that, they should help China to demand from Japan the restoration of her leased territory, the Liaotung Peninsula, and the abolition of Japan's spheres of interest. These two steps would at once prove the goodwill and disinterestedness of Great Britain and France and deprive Japan of the means of annexing China.

The second point which is worthy of the serious attention of Great Britain, France, and the United States is that in their dealings with China they should discard as far as possible the idea of internationalization or international co-operation. That principle is impracticable because it is impossible to get all the treaty States of China to agree on vital problems, and its evil effect has already been seen in the case of the Chinese tariff, which requires the unanimous consent of thirteen States for any alteration and which enables any single State, however unimportant in its relations with China, to defy the goodwill of other States. But the most fundamental objection to internationalization is that, as Japan must be a party to such an arrangement, it will give her the opportunity of defying the goodwill of the Western States and vetoing any proposal made by them but not acceptable to herself. The result will be either a deadlock or the surrender of the Western Powers to the dictation of Japan. It should now be evident to the British and the French financiers who, together with their Russian, German, and Japanese colleagues, form the Consortium at Peking, that while they all pretend not to permit the Chinese Government to raise any political loans from any foreign

bankers not belonging to their circle, the financiers of Japan, with the support of their Government, have advanced to China many loans ostensibly for industrial development but actually for political purposes. The Japanese have an ingenious way of evading their obligations ; it is difficult to expect them to observe the rules and conventions agreed upon by the Consortium, and yet, at the same time, it may be impossible to make an open charge against them for a violation of the letter of the agreement.

Great Britain, France, and the United States should each take their own initiative without regard to what other States may do. The Chinese have confidence in them and believe that they do not desire to interfere with their political independence. Nevertheless, they feel that at this time of transition in their country—transition from the old order of things to the new—they are justified in asking for a reasonable amount of assistance, so that they will be able to organize themselves against the menace of an Imperialistic country and maintain the rights of less developed States. The assistance may be rendered in the following ways :

(1) The three Powers concerned should encourage their capitalists to invest in China, not with a view to establishing their political influence and raising diplomatic controversies, but with a view to developing the country by purely private enterprise. The investors should be interfered with as little as possible either by the Chinese or by their own Government.

(2) They should allow their citizens to co-operate freely with the Chinese in industrial and commercial enterprises in China, as they have already done in the Straits Settlements and in other British Colonies.

(3) They should send over to China a large number of persons skilled in engineering and in industrial management, in order to help her to survey and open the mines, to establish factories, to introduce scientific irrigation, and to construct railways ; these persons being allowed to seek for employment either under the Chinese Government or under private entrepreneurs.

(4) They should restore to China the right to fix her own tariff, so as to relieve her financial stress.

(5) They should agree to a revision of the existing system of exterritorial jurisdiction in the way suggested in Chapter 6, so as to facilitate industrial co-operation between the Chinese and foreigners.

(6) Great Britain and France should follow the example of the United States by refunding the balances of the Boxer Indemnity and allowing them to be used for the education of the Chinese either abroad or in their own country, or in both.

## APPENDIX I

# *The Provisional Constitution of the Republic of China*

PASSED AT NANKING IN JANUARY, 1912

### *Chapter* 1. *General Provisions*

ARTICLE 1. The Republic of China is composed of the Chinese People.

ART. 2. The Sovereignty of the Chinese Republic is vested in the people.

ART. 3. The territory of the Chinese Republic consists of the 18 provinces, Inner and Outer Mongolia, Tibet, and Chinghai.

ART. 4. The Sovereignty of the Chinese Republic is exercised by the National Council, the Provisional President, the Cabinet, and the Judiciary.

### *Chapter* 2. *Citizens*

ART. 5. Citizens of the Chinese Republic are all equal, and there shall be no racial, class, or religious distinctions.

ART. 6. Citizens shall enjoy the following rights :

(*a*) The person of the citizens shall not be arrested, imprisoned, tried, or punished except in accordance with law.

(*b*) The habitations of citizens shall not be entered or searched except in accordance with law.

(*c*) Citizens shall enjoy the right of the security of their property and the freedom of trade.

(*d*) Citizens shall have the freedom of speech, of composition, of publication, of assembly, and of association.

(*e*) Citizens shall have the right of the secrecy of their letters.

(*f*) Citizens shall have the liberty of residence and removal.

(*g*) Citizens shall have the freedom of religion.

ART. 7. Citizens shall have the right to petition the Parliament.

ART. 8. Citizens shall have the right of petitioning the executive officials.

ART. 9. Citizens shall have the right to institute proceedings before the Judiciary, and to receive trial and judgement.

ART. 10. Citizens shall have the right of suing officials in the Administrative Courts for violation of law against their rights.

ART. 11. Citizens shall have the right of participating in civil examinations.

ART. 12. Citizens shall have the right to vote and to be voted for.

ART. 13. Citizens shall have the duty to pay taxes according to law.

ART. 14. Citizens shall have the duty to enlist as soldiers according to law.

ART. 15. The rights of citizens, as provided in the present Chapter, shall be limited or modified by laws, provided such limitation or modification shall be deemed necessary for the promotion of public welfare, for the maintenance of public order, or on account of extraordinary exigency.

### *Chapter* 3. *The National Council*[1]

ART. 16. The legislative power of the Chinese Republic is exercised by the National Council.

ART. 17. The Council shall be composed of members elected by the several districts as provided in Article 18.

ART. 18. The Provinces, Inner and Outer Mongolia, and Tibet shall each elect and deputy five members to the Council, and Chinghai shall elect one member.

The election districts and methods of election shall be decided by the localities concerned.

During the meeting of the Council each member shall have one vote.

[1] The Council has been replaced by two Houses of Parliament since April 1913.

ART. 19. The National Council shall have the following powers:

(*a*) To pass all Bills.

(*b*) To pass the budgets of the Provisional Government.

(*c*) To pass laws of taxation, of currency, and weights and measures for the whole country.

(*d*) To pass measures for the raising of public loans and to conclude contracts affecting the National Treasury.

(*e*) To give consent to matters provided in Articles 34, 35, and 40.

(*f*) To reply to inquiries from the Provisional President.

(*g*) To receive and consider petitions of citizens.

(*h*) To make suggestions to the Government on legal or other matters.

(*i*) To introduce interpellations to members of the Cabinet, and to insist on their being present in the Council in making replies thereto.

(*j*) To insist on the Government investigating into any alleged bribery and infringement of laws by officials.

(*k*) To impeach the Provisional President for high treason by a majority of three-fourths of the quorum consisting of more than four-fifths of the total number of the members.

(*l*) To impeach members of the Cabinet for failure to perform their official duties or for violation of the law by majority votes of two-thirds of the quorum consisting of over three-fourths of the total number of the members.

ART. 20. The National Council shall itself convoke, conduct, and adjourn its own meetings.

ART. 21. The meetings of the National Council shall be conducted publicly, but secret meetings may be held at the suggestion of members of the Cabinet or by the majority vote of its quorum.

ART. 22. Matters passed by the National Council shall be communicated to the Provisional President for promulgation and execution.

ART. 23. If the Provisional President should veto matters

passed by the National Council, he shall, within ten days after he has received such resolutions, return the same with stated reasons to the Council for reconsideration. If by a two-thirds vote of the quorum of the Council, it shall be dealt with in accordance with Article 22.

ART. 24. The Chairman of the National Council shall be elected by ballots signed by the voting members and the one receiving more than one-half of the total number of the votes cast shall be elected.

ART. 25. Members of the National Council shall not, outside the Council, be responsible for their opinion expressed and votes cast in the Council.

ART. 26. Members of the Council shall not be arrested without the permission of the Chairman of the Council except for crimes pertaining to civil and international warfare.

ART. 27. Procedure of the National Council shall be decided by its own members.

ART. 28. The National Council shall be dissolved on the day of the convocation of the National Assembly, and its powers shall be exercised by the latter.

*Chapter 4. The Provisional President and Vice-President*

ART. 29. The Provisional President and Vice-President shall be elected by the National Council, and he who receives two-thirds of the total number of votes cast by a sitting of the Council consisting of over three-fourths of the total number of members shall be elected.

ART. 30. The Provisional President represents the Provisional Government as the fountain of all executive powers and for promulgating all laws.

ART. 31. The Provisional President may issue or cause to be issued orders for the execution of laws and of powers delegated to him by the law.

ART. 32. The Provisional President shall be the Commander-in-Chief of the Army and Navy of the whole of China.

ART. 33. The Provisional President shall ordain and establish the administrative system and official regulations,

but he must first submit them to the National Council for its approval.

Art. 34. The Provisional President shall appoint and remove civil and military officials, but in the appointment of Members of the Cabinet, Ambassadors, and Ministers, he must have the concurrence of the National Council.

Art. 35. The Provisional President shall have power, with the concurrence of the National Council, to declare war and conclude treaties.

Art. 36. The Provisional President may, in accordance with law, declare a state of siege.

Art. 37. The Provisional President shall, representing the whole country, receive Ambassadors and Ministers of foreign countries.

Art. 38. The Provisional President may introduce Bills into the National Council.

Art. 39. The Provisional President may confer decorations and other insignia of honour.

Art. 40. The Provisional President may declare general amnesty, grant special pardon, commute punishment, and restore rights, but in the case of a general amnesty he must have the concurrence of the National Council.

Art. 41. In case the Provisional President is impeached by the National Council, he shall be tried by a special court consisting of nine judges elected from among the justices of the Supreme Court of the realm.

Art. 42. In case the Provisional President vacates his office for various reasons, or is unable to discharge the powers and duties of the said office, the Provisional Vice-President shall take his place.

### *Chapter 5. Members of the Cabinet*

Art. 43. The Premier and the Chiefs of the Government Departments shall be called Members of the Cabinet.

Art. 44. Members of the Cabinet shall assist the Provisional President in assuming responsibilities.

Art. 45. Members of the Cabinet shall countersign all

Bills introduced by the Provisional President and laws and orders issued by him.

ART. 46. Members of the Cabinet and their deputies may be present and speak in the National Council.

ART. 47. Upon members of the Cabinet having been impeached by the National Council, the Provisional President may remove them from office, but such removal shall be subject to the reconsideration of the National Council.

### *Chapter 6. The Judiciary*

ART. 48. The Judiciary shall be composed of those judges appointed by the Provisional President and the Minister of Justice.

The organization of the Courts and the qualifications of judges shall be determined by law.

ART. 49. The Judiciary shall try civil and criminal cases, but cases involving administrative affairs or arising from other particular causes shall be dealt with according to special laws.

ART. 50. The trial of cases in the Law Courts shall be conducted publicly, but those affecting public safety and order may be in camera.

ART. 51. Judges shall be independent, and shall not be subject to the interference of higher officials.

ART. 52. Judges during their continuance in office shall not have their emolument decreased and shall not be transferred to other offices, nor shall they be removed from office except when they are convicted of crimes, or of offences punishable according to law by removal from office.

Regulations for the punishment of judges shall be determined by law.

### *Chapter 7. Supplementary Articles*

ART. 53. Within ten months after the promulgation of this Provisional Constitution the Provisional President shall convene a National Assembly, the organization of which

and the laws for the election of the members shall be decided by the National Council.

Art. 54. The Constitution of the Republic of China shall be adopted by the National Assembly, but before the promulgation of the Constitution, the Provisional Constitution shall be as effective as the Constitution itself.

Art. 55. The Provisional Constitution may be amended by the assent of two-thirds of the members of the National Council or upon the application of the Provisional President and being passed by over three-fourths of the quorum of the Council consisting of over four-fifths of the total number of its members.

Art. 56. The present Provisional Constitution shall take effect on the date of its promulgation, and the fundamental articles for the organization of the Provisional Government shall cease to be effective on the same date.

## APPENDIX II

### *Treaties respecting Shantung, South Manchuria and Eastern Inner Mongolia, and Exchanges of Notes between China and Japan. May 25th,* 1915.

(Translated from the Chinese)

#### Treaty Respecting the Province of Shantung

His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, having resolved to conclude a Treaty with a view to the maintenance of general peace in the Extreme East and the further strengthening of the relations of friendship, and good neighbourhood now existing between the two nations, have for that purpose named as their Plenipotentiaries, that is to say :

His Excellency the President of the Republic of China, Lou Tseng-tsiang, Chung-ching, First Class Chia-ho Decoration, Minister of Foreign Affairs.

And His Majesty the Emperor of Japan, Hioki Eki, Jushii, Second Class of the Imperial Order of the Sacred Treasure, Minister Plenipotentiary, and Envoy Extraordinary :

Who, after having communicated to each other their full powers and found them to be in good and due form, have agreed upon and concluded the following articles :

Art. 1. The Chinese Government agrees to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the Province of Shantung.

Art. 2. The Chinese Government agrees that as regards the railway to be built by China herself from Chefoo or Lungkow to connect with the Kiaochow–Chinanfu railway, if Germany abandons the privilege of financing the Chefoo–Wehsien line China will approach Japanese capitalists to negotiate for a loan.

Art. 3. The Chinese Government agrees in the interest of trade and for the residence of foreigners, that China herself shall open, as soon as possible, certain suitable places in the Province of Shantung as Commercial Ports.

Art. 4. The present treaty shall come into force on the day of its signature.

The present treaty shall be ratified by His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, and the ratification thereof shall be exchanged at Tokio as soon as possible.

In witness whereof, the respective Plenipotentiaries of the High Contracting Parties have signed and sealed the present Treaty, two copies in the Chinese language, and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month of the fourth year of the Republic of China, corresponding to the same day of the same month of the fourth year of Taisho.

EXCHANGE OF NOTES RESPECTING SHANTUNG

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

In the name of the Chinese Government I have the honour to make the following declaration to your Government: 'Within the Province of Shantung or along its coast no territory or island will be leased or ceded to any foreign Power under any pretext.'

I avail, etc.,

Signed: LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you made the following declaration in the name of the Chinese Government: 'Within the Province of Shantung or along its coast no territory or island will be leased or ceded to any foreign Power under any pretext.'

In reply, I beg to state that I have taken note of this declaration.

I avail, etc.,

Signed: HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

## Exchange of Notes Respecting the Opening of Ports in Shantung

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

Monsieur le Ministre,

I have the honour to state that the places which ought to be opened as Commercial Ports by China herself, as provided in Article 3 of the Treaty respecting the Province of Shantung signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan.

I avail, etc.,
Signed : Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you stated ' that the places which ought to be opened as Commercial Ports by China herself, as provided in Article 3 of the Treaty respecting the Province of Shantung signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan '.

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed : Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE RESTORATION OF THE LEASED TERRITORY OF KIAOCHOW BAY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

In the name of my Government I have the honour to make the following declaration to the Chinese Government.

When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

1. The whole of Kiaochow Bay to be opened as a Commercial Port.

2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.

3. If the foreign Powers desire it, an international concession may be established.

4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.

I avail, etc.,

Signed: HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you made the following declaration in the name of your Government:

'When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions :

1. The whole of Kiaochow Bay to be opened as a Commercial Port.

2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.

3. If the foreign Powers desire it, an international concession may be established.

4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.'

In reply, I beg to state that I have taken note of this declaration.

I avail, etc.,
Signed : Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

## Treaty Respecting South Manchuria and Eastern Inner Mongolia

His Excellency the President of the Republic of China and his Majesty the Emperor of Japan, having resolved to conclude a Treaty with a view to developing their economic relations in South Manchuria and Eastern Inner Mongolia, have for that purpose named as their Plenipotentiaries, that is to say :

His Excellency the President of the Republic of China, Lou Tseng-tsiang, Chung-ching, First Class Chia-ho Decoration, and Minister of Foreign Affairs ; and His Majesty the Emperor of Japan, Hioki Eki, Jushii, Second

Class of the Imperial Order of the Sacred Treasure, Minister Plenipotentiary and Envoy Extraordinary.

Who, after having communicated to each other their full powers, and found them to be in good and due form, have agreed upon and concluded the following Articles :

ART. 1. The Two High Contracting Parties agree that the term of lease of Port Arthur and Dalny, and the terms of the South Manchurian Railway and the Antung–Mukden Railway, shall be extended to 99 years.

ART. 2. Japanese subjects in South Manchuria may, by negotiation, lease land necessary for erecting suitable buildings for trade and manufacture or for prosecuting agricultural enterprises.

ART. 3. Japanese subjects shall be free to reside and travel in South Manchuria and to engage in business and manufacture of any kind whatsoever.

ART. 4. In the event of Japanese and Chinese desiring jointly to undertake agricultural enterprises and industries incidental thereto, the Chinese Government may give its permission.

ART. 5. The Japanese subjects referred to in the preceding three articles, besides being required to register with the local Authorities passports which they must procure under the existing regulations, shall also submit to the police law and ordinances and taxation of China.

Civil and criminal cases in which the defendants are Japanese shall be tried and adjudicated by the Japanese Consul ; those in which the defendants are Chinese shall be tried and adjudicated by Chinese Authorities. In either case an officer may be deputed to the court to attend the proceedings. But mixed civil cases between Chinese and Japanese relating to land shall be tried and adjudicated by delegates of both nations conjointly in accordance with Chinese law and local usage.

When, in future, the judicial system in the said region is completely reformed, all civil and criminal cases concerning Japanese subjects shall be tried and adjudicated entirely by Chinese law courts.

Art. 6. The Chinese Government agrees, in the interest of trade and for the residence of foreigners, that China herself shall open, as soon as possible, certain suitable places in Eastern Inner Mongolia as Commercial Ports.

Art. 7. The Chinese Government agrees speedily to make a fundamental revision of the Kirin-Changchun Railway Loan Agreement, taking as a standard the provisions in railway agreements made heretofore between China and foreign financiers.

When in future, more advantageous terms than those in existing railway loan agreements are granted to foreign financiers in connection with railway loans, the above agreement shall again be revised in accordance with Japan's wishes.

Art. 8. All existing treaties between China and Japan relating to Manchuria shall, except where otherwise provided for by this Treaty, remain in force.

Art. 9. The present Treaty shall come into force on the date of its signature. The present Treaty shall be ratified by His Excellency the President of the Republic of China and His Majesty the Emperor of Japan, and the ratifications thereof shall be exchanged at Tokio as soon as possible.

In witness whereof, the respective Plenipotentiaries of the two High Contracting Parties have signed and sealed the present Treaty, two copies in the Chinese language, and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month of the fourth year of the Republic of China, corresponding to the same day of the same month of the fourth year of Taisho.

Exchange of Notes Respecting the Terms of Lease of Port Arthur and Dalny and the Terms of South Manchurian and Antung-Mukden Railways

*Peking, the 26th day of the 5th month of the 4th year of the Republic of China.*

Monsieur le Ministre,

I have the honour to state that, respecting the provisions contained in Article 1 of the Treaty relating to South

Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchurian Railway to China shall fall due in the 91st year of the Republic or 2002. Article 21 in the original South Manchurian Railway Agreement, providing that it may be redeemed by China after 36 years from the day on which the traffic is opened, is hereby cancelled. The term of the Antung–Mukden Railway shall expire in the 96th year of the Republic or 2007.

I avail, etc.,
Signed : Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you stated that 'respecting the provisions contained in Article 1 of the Treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchurian Railway to China shall fall due in the 91st year of the Republic or 2002. Article 21 in the original South Manchurian Railway Agreement, providing that it may be redeemed by China after 36 years from the day on which the traffic is opened, is hereby cancelled. The term of the Antung–Mukden Railway shall expire in the 96th year of the Republic or 2007.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed : Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE OPENING OF PORTS IN EASTERN INNER MONGOLIA

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to state that the places which ought to be opened as Commercial Ports by China herself, as provided in Article 6 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan.

I avail, etc.,

Signed : LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you stated that the places which ought to be opened as Commercial Ports by China herself, as provided in Article 6 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the Minister of Japan.

In reply, I beg to state that I have taken note of the same.

I avail, etc.,

Signed : HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

SOUTH MANCHURIA

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to state that Japanese subjects shall, as soon as possible, investigate and select mines in the mining areas in South Manchuria specified hereinunder, except those being prospected for or worked, and the Chinese Government will then permit them to prospect or work the same; but before the Mining regulations are definitely settled, the practice at present in force shall be followed.

PROVINCES: FENGTIEN

| LOCALITY | DISTRICT | MINERAL |
|---|---|---|
| Hiu Hsin T'ai | Pen-hsi | Coal |
| Tien Shih Fu Kou | ,, | ,, |
| Sha Sung Kang | Hai-lung | ,, |
| T'ieh Ch'ang | Tung-hua | ,, |
| Nuan Ti T'ang | Chin | ,, |
| An Shan Chan region | From Liaoyang to Pen-hsi | Iron |

KIRIN (Southern portion)

| | | |
|---|---|---|
| Sha Sung Kang | Ho-lung | C. & I. |
| Kang Yao | Chi-lin (Kirin) | Coal |
| Chia P'i Kou | Hua-tien | Gold |

I avail, etc.,
Signed: LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date respecting the opening

of mines in South Manchuria, stating : ' Japanese subjects shall, as soon as possible, investigate and select mines in the mining areas in South Manchuria specified hereinunder, excepting those being prospected for or worked, and the Chinese Government will then permit them to prospect or work the same, but before the Mining regulations are definitely settled, the practice at present in force shall be followed.

PROVINCES : FENGTIEN

| Locality | District | Mineral |
|---|---|---|
| Hui Hsin T'ai | Pen-hsi | Coal |
| Tien Shih Fu Kou | ,, | ,, |
| Sha Sung Kang | Hai-lung | ,, |
| T'ieh Ch'ang | Tung-hua | ,, |
| Nuan Ti T'ang | Chin | ,, |
| An Shan Chan region | From Liaoyang to Pen-hsi | Iron |

KIRIN (Southern portion)

| | | |
|---|---|---|
| Sha Sung Kang | Ho-lung | C. & I. |
| Kang Yao | Chi-lin (Kirin) | Coal |
| Chia P'i Kou | Hua-tien | Gold ' |

Signed : Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs
of the Republic of China.

Exchange of Notes Respecting Railways and Taxes in South Manchuria and Eastern Inner Mongolia

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

Monsieur le Ministre,

In the name of my Government, I have the honour to make the following declaration to your Government :

China will hereafter provide funds for building necessary railways in South Manchuria and Eastern Inner Mongolia ;

if foreign capital is required China will negotiate for a loan with Japanese capitalists first; and further, the Chinese Government, when making a loan in future on the security of the taxes in the above-mentioned places (excluding the salt and customs revenue, which has already been pledged by the Chinese Central Government) will negotiate for it with Japanese capitalists first.

I avail, etc.,
Signed: Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date respecting railways and taxes in South Manchuria and Eastern Inner Mongolia in which you stated:

'China will hereafter provide funds for building necessary railways in South Manchuria and Eastern Inner Mongolia; if foreign capital is required China will negotiate for a loan with Japanese capitalists first; and further, the Chinese Government, when making a loan in future on the security of taxes in the above-mentioned places (excluding the salt and customs revenue, which has already been pledged by the Chinese Central Government) will negotiate for it with Japanese capitalists first.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed: Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

## Exchange of Notes Respecting the Employment of Advisers in South Manchuria

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

Monsieur le Ministre,

In the name of the Chinese Government, I have the honour to make the following declaration to your Government:

'Hereafter, if foreign advisers or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese will be employed first.'

I avail, etc.,
Signed: Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you made the following declaration in the name of your Government:

'Hereafter, if foreign advisers or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese will be employed first.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed: Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE EXPLANATION OF 'LEASE BY NEGOTIATION' IN SOUTH MANCHURIA

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to state that the term 'lease by negotiation' contained in Article 2 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day shall be understood to imply a long-term lease of not more than thirty years and also the possibility of its unconditional renewal.

I avail, etc.,
Signed: HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you state:

'The term "lease by negotiation" contained in Article 2 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day shall be understood to imply a long-term lease of not more than thirty years and also the possibility of its unconditional renewal.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed: LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

EXCHANGE OF NOTES RESPECTING THE ARRANGEMENT FOR POLICE LAWS AND ORDINANCES AND TAXATION IN SOUTH MANCHURIA AND EASTERN INNER MONGOLIA

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to state that the Chinese Authorities will notify the Japanese Consul of the police laws and ordinances and the taxation to which Japanese subjects shall submit according to Article 5 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day so as to come to an understanding with him before their enforcement.

I avail, etc.,
Signed: LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you state:

'The Chinese Authorities will notify the Japanese Consul of the police laws and ordinances and the taxation to which Japanese subjects shall submit according to Article 5 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day so as to come to an understanding with him before their enforcement.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed: HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

NOTE

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to state that, inasmuch as preparations have to be made regarding Articles 2, 3, 4, and 5 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, the Chinese Government proposes that the operation of the said Articles be postponed for a period of three months beginning from the date of the signing of the said Treaty.

I hope your Government will agree to this proposal.

I avail, etc.,
Signed : LOU TSENG-TSIANG.

His Excellency HIOKI EKI.
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you stated that 'inasmuch as preparations have to be made regarding Articles 2, 3, 4, and 5 of the Treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, the Chinese Government proposes that the operation of the said Articles be postponed for a period of three months beginning from the date of the signing of the said Treaty'.

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed : HIOKI EKI.

His Excellency LOU TSENG-TSIANG,
Minister of Foreign Affairs.

EXCHANGE OF NOTES RESPECTING THE MATTER OF HANYEHPING

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

MONSIEUR LE MINISTRE,

I have the honour to state that if in future the Hanyehping Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said Company, will forthwith give its permission. The Chinese Government further agrees not to confiscate the said Company, nor, without the consent of the Japanese capitalists, to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese.

I avail, etc.,
Signed : LOU TSENG-TSIANG.

His Excellency HIOKI EKI,
Japanese Minister.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of Taisho.*

EXCELLENCY,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you state :

' If in future the Hanyehping Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said Company, will forthwith give its permission. The Chinese Government further agrees not to confiscate the said Company, nor, without the consent of the Japanese capitalists, to convert it into a state

enterprise, nor cause it to borrow and use foreign capital other than Japanese.'

In reply, I beg to state that I have taken note of the same.

I avail, etc.,
Signed : Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

Exchange of Notes Respecting the Fukien Question

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

Excellency,

A report has reached me to the effect that the Chinese Government has the intention of permitting foreign nations to establish on the coast of Fukien Province, dockyards, coaling stations for military use, naval bases, or to set up other military establishments ; and also of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I have the honour to request that Your Excellency will be good enough to give me reply stating whether or not the Chinese Government really entertains such an intention.

I avail, etc.,
Signed : Hioki Eki.

His Excellency Lou Tseng-Tsiang,
Minister of Foreign Affairs.

REPLY

*Peking, the 25th day of the 5th month of the 4th year of the Republic of China.*

Monsieur le Ministre,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date, which I have noted.

In reply, I beg to inform you that the Chinese Government

hereby declares that it has given no permission to foreign nations to construct on the coast of Fukien Province, dockyards, coaling stations for military use, naval bases, or to set up other military establishments; nor does it entertain an intention of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I avail, etc.,
Signed: Lou Tseng-Tsiang.

His Excellency Hioki Eki,
Japanese Minister.

## APPENDIX III

## *Documents*[1] *relative to the Negotiations between Japan and the Allied Powers as to the disposal of German rights in respect of Shantung Province, and the South Sea Islands north of the Equator*

### The British Embassy to the Japanese Ministry of Foreign Affairs

(February 16, 1917)

Monsieur le Ministre,

With reference to the subject of our conversation of the 27th ultimo, when Your Excellency informed me of the desire of the Imperial Government to receive an assurance that, on the occasion of a Peace Conference, His Britannic Majesty's Government will support the claims of Japan in regard to the disposal of Germany's rights in Shantung and possessions in the Islands North of the Equator, I have the honour, under instructions received from his Britannic

[1] The existence of these Documents was not known to the United States or the Chinese Government till the Peace Conference began to deal with the Shantung Question.

Majesty's Principal Secretary of State for Foreign Affairs, to communicate to Your Excellency the following message from His Britannic Majesty's Government :

His Majesty's Government accedes with pleasure to the request of the Japanese Government for an assurance that they will support Japan's claims in regard to the disposal of Germany's rights in Shantung and possessions in Islands North of the Equator on the occasion of Peace Conference, it being understood that the Japanese Government will, in eventual peace settlement, treat in same spirit Great Britain's claims to German Islands South of Equator.

I avail myself of this opportunity, Monsieur le Ministre, to renew to Your Excellency the assurance of my highest consideration.

Signed : Conyngham Greene,
H.B.M. Ambassador.

His Excellency
Viscount Ichiro Motono,
H.I.J.M. Minister for Foreign Affairs,
etc., etc., etc.

The Japanese Ministry of Foreign Affairs to the British Embassy

(February 21, 1917)

*Translation*

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of Your Excellency's Note of the 16th instant, giving assurance that His Britannic Majesty's Government will support the claims to be advanced by the Imperial Government in regard to the disposal of Germany's rights in Shantung and possessions in Islands North of Equator on the occasion of a Peace Conference.

The Japanese Government are deeply appreciative of the friendly spirit in which your Government have given the

assurance, and are happy to note it as a fresh proof of the close ties that unite the two Allied Powers. I take pleasure in stating that the Japanese Government, on their part, are fully prepared to support in the same spirit the claims which may be put forward at Peace Conference by His Britannic Majesty's Government in regard to German possessions in Islands South of Equator.

I avail myself of this opportunity, Monsieur l'Ambassadeur, to renew to Your Excellency the assurance of my highest consideration.

Signed: Ichiro Motono,
etc., etc., etc.

His Excellency
Sir Conyngham Greene,
etc., etc., etc.

The Japanese Ministry of Foreign Affairs to the Russian and French Embassies

(February 19, 1917)

*Translation*

The Imperial Government has not yet formally entered into conversations with the Entente Powers concerning the conditions of peace it proposes to present to Germany, being guided by the thought that such questions ought to be decided in concert between Japan and the said Powers at the moment when the peace negotiations start.

Nevertheless, in view of recent development in the general situation, and in view of the particular arrangements concerning peace conditions, such as arrangements relative to the disposition of the Bosphorus, Constantinople, and the Dardanelles, having already been entered into by the Powers interested, the Imperial Government believes that the moment has come for it also to express its desiderata relative to certain conditions of peace essential to Japan and to submit them for the consideration of the Government of Russia (of the French Republic).

The Government of Russia (of the Republic) is fully aware

of all the efforts the Imperial Government has made in a general manner to accomplish its task in the present war, and particularly with a view of guaranteeing for the future the peace of Oriental Asia and of the security of the Japanese Empire, for both of which it is absolutely necessary to deprive Germany of its bases of political, military, and economic activity in the Far East.

Under these conditions the Imperial Government intends to demand from the German Government at the time of peace negotiations the surrender of the territorial rights and special interests Germany possessed before the war in Shantung and in the Islands belonging to her, situated to the North of the Equator in the Pacific Ocean.

The Imperial Government ventures to hope that the Government of Russia (of the French Republic), in view of the legitimacy of these claims, will give the assurance that, whenever the case arises, the Imperial Government may count upon its full support on this question.

It goes without saying that reparations for damages caused to the lives and property of the Japanese people by the unjustifiable attacks of the enemy, as well as other conditions of peace of a character common to all the Entente Powers, are entirely outside the consideration of the present question.

### The French Embassy to the Japanese Ministry of Foreign Affairs

(March 1, 1917)

*Translation*

The Government of the Republic is disposed to give the Japanese Government its assistance in regulating, at the time of the peace negotiations, questions essential to Japan concerning Shantung and the German Islands in the Pacific, situated to the North of the Equator. It also agrees to support the demands of the Imperial Government for the surrender of the rights Germany possessed before the war in this Chinese province and the Islands.

M. Briand requests, on the other hand, that the Japanese Government give its support to obtain from China the rupture of its diplomatic relations with Germany, and that she push this act to a desirable extent. The consequences of this, according to him, would be :

1. The handing over of passports to the German diplomatic and consular agents.

2. The obligation of all German nationals to leave Chinese territory.

3. The internment of German ships having sought refuge in Chinese ports and the ultimate requisition of these ships in order to place them at the disposition of the Allies, following the example of Italy and Portugal. From the advices which reached the French Government, there are fifteen German ships in Chinese ports totalling about 40,000 tons.

4. The sequestration of German commercial houses established in China.

5. The forfeiture of the rights of Germany in the concessions she possessed in certain ports.

### The Japanese Ministry of Foreign Affairs to the French Embassy

(March 6, 1917)

*Translation*

The Ministry of Foreign Affairs has the honour to acknowledge the receipt of the Note of the French Embassy, under the date of March 1, 1917, informing that the French Government is disposed to give the Imperial Government its assistance in regulating, at the time of the peace negotiations, questions essential to Japan concerning Shantung and the German Islands in the Pacific, situated to the North of the Equator, and that it agrees to support the demands of the Imperial Government for the surrender of the rights Germany possessed before the war in Shantung and in the aforesaid Islands.

The Imperial Government takes note of this communica-

tion with profound gratitude for the friendly sentiment which inspired the French Government in giving its full assent to the desiderata of the Imperial Government.

The aforesaid Note equally set forth the desire of His Excellency, M. Briand, of ensuring the support of the Imperial Government with a view to obtaining from China the rupture of her diplomatic relations with Germany, to its full, desirable extent. Concerning this question, the Imperial Government, as the French Government was constantly kept informed of it, did not fail to make all efforts from the beginning. Consequently, the Imperial Government has hereby only to confirm its intention of giving its entire support to the desire expressed by M. Briand, in accord with the Allies, with a view to bringing about the consequences enumerated in the above-mentioned Note.

### The Russian Embassy to the Japanese Ministry of Foreign Affairs

(February 20 and March 5, 1917)

*Translation*

In reply to the Note of the Japanese Ministry of Foreign Affairs, under the date of February 19 last, the Russian Embassy is charged with giving the Japanese Government the assurance that it can entirely count on the support of the Imperial Government of Russia with regard to its desiderata concerning the eventual surrender to Japan of the rights belonging to Germany in Shantung and of the German Islands, occupied by the Japanese forces, in the Pacific Ocean to the North of the Equator.

### The Japanese Ministry of Foreign Affairs to the Russian Embassy

(March 8, 1917)

*Translation*

The Ministry of Foreign Affairs has the honour to acknowledge the receipt of the Note of the Russian Embassy, under

the date of March 5, 1917, in reply to the Note of the Ministry under the date of February 19 of the same year.

In the said Note, the Russian Embassy was good enough to declare that it was charged with giving the Japanese Government the assurance that it could entirely count upon the support of the Russian Government with regard to its desiderata concerning the eventual surrender to Japan of the rights belonging to Germany in Shantung and of the German Islands in the Pacific, situated to the North of the Equator.

The Japanese Government takes note of this communication with profound gratitude for the sentiment which inspired the Russian Government in giving its full assent to the desiderata of the Japanese Government.

THE JAPANESE EMBASSY TO THE ITALIAN GOVERNMENT

(March 23, 1917)

*Translation*

The Imperial Japanese Government intends to demand from the German Government, at the negotiations of peace, the surrender of the territorial rights and special interests which Germany possessed, before the war, in Shantung and in the German Islands in the Pacific, situated to the North of the Equator.

In view of the present phase of events, the Imperial Government believed it bound to ensure forthwith the entire support of the English, French, and Russian Governments, in case the foregoing claims should be presented to Germany at the peace negotiations.

In bringing to the knowledge of the Royal Government of Italy as a very confidential information that an arrangement has recently been entered into between the Imperial Government of one part and the British, French, and Russian Governments of the other part, relating to the foregoing, the Imperial Government has the firmest conviction that the Royal Government of Italy, being inspired by the sentiments of friendship which animate the two countries, and

considering the necessity of mutual assistance for the triumph of the common cause in the present war, will be good enough to welcome with satisfaction the conclusion of the above-mentioned arrangement.

ITALY'S REPLY TO THE NOTE OF THE JAPANESE EMBASSY

(March 23, 1917)

Upon reading the foregoing Memorandum, the Italian Minister for Foreign Affairs said to the Japanese Ambassador that the Italian Government had no objection regarding the matter.

## APPENDIX IV

## *Exchange of Notes between the Chinese Minister at Tokio and the Japanese Minister for Foreign Affairs respecting the Construction of Tsinanfu-Shunteh and Kaomi-Hsuchow Railways, September 24th,* 1918

NOTE FROM MR. TSUNG-HSIANG CHANG TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS

Tokyo, September 24, 1918.

MONSIEUR LE MINISTRE,

The Chinese Government have decided to obtain loans from Japanese capitalists for the purpose of constructing as soon as possible the railways connecting points as below set forth. Having received an authorization from my Government, I have the honour to communicate the same to your Government.

1. Between Tsinanfu and Shunteh ;
2. Between Kaomi and Hsuchow.

However, in case the above-mentioned two lines are deemed to be disadvantageous from the point of view of railway enterprise, other suitable lines will be decided upon by consultation.

Should there be no objection to the above propositions it is requested that your Government will proceed forthwith to take the necessary steps to cause Japanese capitalists to agree to enter into negotiations for loans on the same.

A reply to the above communication will be appreciated.

Signed : Tsung-Hsiang Chang.

His Excellency Baron Shimpei Goto, etc.

Baron Goto to the Chinese Minister at Tokio

Tokyo, September 24, 1918.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of Your Excellency's note of this day's date in which you state that your Government have decided to obtain loans from Japanese capitalists for the purpose of constructing as soon as possible the railways connecting points as below set forth.

(Quotes Items 1–2 as given in the note of the Chinese Minister.)

The Imperial Government acknowledge with pleasure the communication of the Chinese Government, and beg to state in reply that they will proceed forthwith to take the necessary steps to cause Japanese capitalists to agree to enter into negotiations for loans on the same.

Signed : Shimpei Goto.

His Excellency Mr. Tsung-Hsiang Chang, etc.

## APPENDIX V

### *Preliminary Contract between China and Japan respecting the Tsinanfu-Shunteh and Kaomi-Hsuchow Railways, September 24th,* 1918

The full text of the preliminary contract for the Tsinanfu-Shunteh and Kaomi-Hsuchow railways construction loan is as follows :

For the construction of two railways—one from Tsinanfu

in the Province of Shantung to Shunteh in the Province of Chili, the other from Kaomi in the Province of Shantung to Hsuchow in the Province of Kiangsu (hereafter called the Two Railways)—the Government of the Republic of China (hereafter called the Government) of the first part, and the Japanese Industrial Bank representing the three banks, the Japanese Industrial Bank, the Taiwan Bank, and the Chosen Bank (hereafter called the Banks) of the second part, hereby make the following preliminary contract as a basis for the conclusion of a formal loan contract.

Art. 1. The Government agrees that to meet all the expenses necessary for the construction of the railway from Tsinanfu, in the Province of Shantung, to Shunteh, in the Province of Chili, and that from Kaomi, in the Province of Shantung, to Hsuchow, in the Province of Kiangsu, the Banks shall issue Chinese Government Tsinanfu-Shunteh Railway Gold and Kaomi-Hsuchow Railway Gold Bonds (hereafter called bonds of the two Railways). But to assure the success of the Tsinanfu-Shunteh and Kaomi-Hsuchow lines, if as a railway enterprise the location of the lines should be found to be not advantageous, the Government may arrange with the Banks to change the location of the lines.

Art. 2. The Government will soon determine the amount required for the construction and of all other necessary expenses, and secure concurrence of the Banks therefor.

Art. 3. The bonds of the two railways shall expire at the end of 40 years dating from the day of issue. Repayment shall begin from the eleventh year and be made in accordance with a plan of amortisation.

Art. 4. As soon as the formal contract shall have been made, the construction work shall begin so that the railroads may be completed in a short time.

Art. 5. The Government pledges the following as security for the repayment of the principal and interest on the bonds of the two railways: all properties which now belong or will in the future belong to the Tsinanfu-Shunteh and Kaomi-Hsuchow Railways.

Without the consent of the Banks, the Government shall not pledge away to any other party as security or guarantee any part of the property or the income which at present belongs, or will in future belong to Tsinanfu-Shunteh and Kaomi-Hsuchow railways.

ART. 6. The price of issue of the railway bonds, the interest thereon, and the actual amount to be received by the Government shall be agreed upon according to the circumstances at the time of issue, always however with a view to the best interests of the Government.

ART. 7. Conditions which have not been provided for in the preceding articles shall be decided between the Government and the Banks in common accord.

ART. 8. A formal contract for the Tsinanfu-Shunteh and Kaomi-Hsuchow Railway loan shall be based on this preliminary contract, and be made within four months from the date of this contract.

ART. 9. On the conclusion of this preliminary contract, the Banks will advance to the Government 20,000,000 yen in the full amount without any discount whatsoever.

ART. 10. The rate of interest on the said advance shall be 8 per cent. per annum, that is to say, every one hundred yen shall bear a yearly interest of eight yen.

ART. 11. The said advance shall be paid against the delivery of national treasury notes issued by the Government, according to their actual value.

ART. 12. The national treasury notes referred to in the preceding article shall be renewed every six months, and upon each renewal, the interest thereon for the six months shall be paid to the Banks.

ART. 13. After a formal contract for the Tsinanfu-Shunteh and Kaomi-Hsuchow railway loan has been made, the Government shall appropriate the proceeds realized from the sale of the above-said bonds in payment, by priority, and without delay, of the above advance.

ART. 14. The payment of the said advance and of the interest thereon, its repayment, and all other transactions connected therewith, shall be made at Tokio, Japan. This

preliminary contract is made in two Japanese copies, and two Chinese copies, the Government and Banks shall each keep one copy of each language. In case of doubt in interpretation, the Japanese text shall prevail.

The 24th day, 9th month, 7th year of the Republic of China.

Signed : Tsung-Hsiang Chang,
Chinese Minister.

A. Ono,
Vice-President of the Japanese Industrial Bank.

## APPENDIX VI

### *Exchange of Notes between the Chinese Minister at Tokio and the Japanese Minister for Foreign Affairs respecting Adjustment of Questions concerning Shantung, September 24th,* 1918

Note from Baron Goto to the Chinese Minister at Tokio

Tokio, September 24, 1918.

Monsieur le Ministre,

The Japanese Government, mindful of the amiable relations between our two countries and out of a spirit of friendly co-operation, propose to adjust all the questions relating to Shantung in accordance with the following Articles :

1. Japanese troops along the Kiaochow-Tsinanfu Railway, except a contingent of them to be stationed at Tsinanfu, shall be withdrawn to Tsingtao.

2. The Chinese Government may organize a police force to undertake the policing of the Kiaochow-Tsinanfu Railway.

3. The Kiaochow-Tsinanfu Railway is to provide a reasonable amount to defray the expense for the maintenance of the above-mentioned police force.

4. Japanese are to be employed at the head-quarters of the above-mentioned police force at the principal railway stations and at the police training school.

5. Chinese citizens shall be employed by the Kiaochow-Tsinan Railway Administration as part of its staff.

6. The Kiaochow-Tsinanfu Railway, after its ownership is definitely determined, is to be made a Chino-Japanese joint enterprise.

7. The civil administration established by Japan and existing now is to be abolished.

The Japanese Government desire to be advised of the attitude of your Government regarding the above-mentioned proposals.

Signed : SHIMPEI GOTO.

His Excellency Mr. TSUNG-HSIANG CHANG, etc.

MR. TSUNG-HSIANG CHANG TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS

Tokio, September 24, 1918.

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of Your Excellency's note stating :

The Japanese Government, mindful of the amiable relations between our two countries and out of a spirit of friendly co-operation, propose to adjust all the questions relating to Shantung in accordance with the following Articles :

(Quotes Items 1–7 as contained in the note of the Japanese Minister for Foreign Affairs.)

In reply, I have the honour to state that the Chinese Government are pleased to agree to the above-mentioned Articles proposed by the Japanese Government.

Signed : TSUNG-HSIANG CHANG.

His Excellency BARON SHIMPEI GOTO, etc.

## APPENDIX VII

### *Exchange of Notes between the Chinese Minister at Tokio and the Japanese Minister for Foreign Affairs for building Four Railroads in Manchuria and Mongolia, September 24th,* 1918

NOTE FROM MR. TSUNG-HSIANG CHANG TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS

Tokio, September 24, 1918.

MONSIEUR LE MINISTRE,

The Chinese Government have decided to obtain loans from Japanese capitalists for the purpose of building as soon as possible the railways connecting the points as below set forth. Having received an authorization from my Government, I have the honour to communicate the same to your Government.

1. Between Kai-yuan, Hailung, and Kirin ;
2. Between Changchun and Taonan ;
3. Between Taonan and Dalny (?) ;
4. From a point between Taonan and Jehol to some sea port (this line to be determined in future after an investigation).

Should there be no objection to the above propositions it is requested that your Government will proceed forthwith to take the necessary steps to cause Japanese capitalists to agree to enter into negotiations for loans on the same.

A reply to the above communication will be appreciated.

Signed : TSUNG-HSIANG CHANG.

His Excellency BARON SHIMPEI GOTO, etc.

BARON GOTO TO THE CHINESE MINISTER AT TOKIO

Tokio, September 24, 1918.

MONSIEUR LE MINISTRE,

I have the honour to acknowledge the receipt of Your Excellency's note in which you state that your Government have decided to obtain loans from Japanese capitalists for the purpose of constructing as soon as possible the railways connecting points as below set forth.

(Quotes Items 1–4 as contained in the note of the Chinese Minister.)

The Imperial Government acknowledge with pleasure the communication of the Chinese Government, and beg to state in reply that they will promptly take the necessary steps to cause Japanese capitalists to agree to enter into negotiations for loans on the same.

Signed: SHIMPEI GOTO.

His Excellency Mr. TSUNG-HSIANG CHANG, etc.

## APPENDIX VIII

### *Preliminary Contract for Loans to build Four Railroads in Manchuria and Mongolia, September* 28, 1918

The Chinese Government (hereafter called the Government), for the purpose of building four railroads:

1. From Jehol to Taonan;
2. From Changchun to Taonan;
3. From Kirin via Hailung to Kailu;
4. From a point between Jehol and Taonan to some point on the sea coast (the said four roads to be hereafter mentioned as the four roads in Manchuria and Mongolia) and as a preparatory measure for a formal contract, hereby concludes with the syndicate represented by the Japanese Industrial Bank and composed of:

1. The Japanese Industrial Bank,

2. The Taiwan Bank,

3. The Chosen Bank,

(hereafter mentioned as the Banks) the following Preliminary Contract.

ART. 1. The Government authorizes the afore-mentioned Japanese Banking Syndicate to issue :

1. Chinese Government Jehol Taonan R. R. Gold Bonds.

2. Chinese Government Changchun-Taonan R. R. Gold Bonds.

3. Chinese Government Kirin-Kailu R. R. Gold Bonds.

4. Chinese Government (name to be determined) R. R. Gold Bonds (hereafter to be designated as Manchuria-Mongolia 4 Railway Bonds) to cover the constructing expenses of the above-mentioned four R. R.

The Government and the Banks shall conjointly determine the point on the Jehol-Taonan R. R. to be connected to some sea port and the route to be taken by the R. R. connecting said point with said sea port.

ART. 2. The Government shall determine as soon as possible the constructing and other expenses needed by the Four R. R. and shall obtain the agreement of the Banks in respect thereof.

ART. 3. The Gold Bonds of the Four R. R. shall expire at the end of forty years, counting from the date of issue of said bonds.

Beginning with the eleventh year from the date of issue, the repayment of the said bonds shall commence in accordance with a system of amortization.

ART. 4. When the Formal Contract for the loan to build the Four R. R. is concluded, the Chinese Government shall conjointly with the Banks decide on an engineering programme of construction and construction shall begin with a view to the speedy completion of the said R. R.

ART. 5. As guarantee for the capital and interest of the Gold Bonds, the Government shall pledge to the Banks the present and future property and income of the Four R. R.

Unless with the consent of the Banks the Government

shall not pledge the above-mentioned property and income as guarantee or security to any other party.

Art. 6. The price of issue, the rate of interest, and the actual amount to be received by the Government in respect of the Gold Bonds shall be determined in accordance with the conditions at the time of issue of said bonds, always, however, to the best interests of the Government.

Art. 7. The Government and the Banks shall conjointly decide on matters not covered by the above articles.

Art. 8. The present Preliminary Contract shall form the basis for a Formal Contract which shall be concluded within four months from the conclusion of the present Preliminary Contract.

Art. 9. The Banks, after the conclusion of the Preliminary Contract, shall advance to the Government Yen 20,000,000 to be paid in full and without discount.

Art. 10. The interest of the above-mentioned advance shall be 8 per cent. per annum, to wit, for every one hundred yen there shall be eight yen as annual interest.

Art. 11. The above-mentioned advance shall be paid against the delivery of the National Treasury Notes issued by the Government at their actual value.

Art. 12. The said National Treasury Notes shall be renewed every six months, each time with the payment of six months' interest.

Art. 13. When the Formal Contract for loans to build the Four R. R. is concluded, the advance shall have priority of repayment from the proceeds of the Gold Bonds.

Art. 14. The payment of both the interest and the advance and other transactions connected therewith shall take place in Tokio.

Copies of this Preliminary Contract shall be prepared in both the Chinese and Japanese languages, two copies in each language. The Government and the Banks shall each be furnished with two copies, one in each language.

In case of disagreement in the interpretation of the Preliminary Contract the Japanese language shall prevail.

Done this Twenty-eighth Day of Ninth Month of the Seventh Year of the Republic of China.

This Twenty-eighth Day of Ninth Month of the Seventh Year of the Reign of Taisho of the Imperial Government of Japan.

Tsung-Tsiang Chang,
Envoy Extraordinary and Minister Plenipotentiary
of the Republic of China to Japan.

A. Ono,
Vice-President of the Japanese Industrial Bank.

## APPENDIX IX

## *Clauses of the Treaty of Peace with Germany, relating to China, signed on June 28th, 1919, by the Allied and Associated Powers and Germany, but not by China*

### Part IV. German Rights and Interests Outside Germany

Art. 118. In territory outside her European frontiers as fixed by the present Treaty, Germany renounces all rights, titles, and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles, and privileges whatever their origin which she held as against the Allied and Associated Powers. Germany undertakes immediately to recognize and to conform to the measures which may be taken now or in the future by the Principal Allied and Associated Powers, in agreement where necessary with third Powers, in order to carry the above stipulation into effect. In particular Germany declares her acceptance of the following Articles relating to certain special subjects.

. . . . . .

### Section II. China

Art. 128. Germany renounces in favour of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and

from all annexes, notes, and documents supplementary thereto. She likewise renounces in favour of China any claim to indemnities accruing thereunder subsequent to March 14, 1917.

ART. 129. From the coming into force of the present Treaty the High Contracting Parties shall apply, in so far as concerns them respectively:

1. The Arrangement of August 29, 1902, regarding the new Chinese Customs tariff.

2. The Arrangement of September 27, 1905, regarding Whang-Poo, and the provisional supplementary Arrangement of April 4, 1912.

China, however, will no longer be bound to grant to Germany the advantages or privileges which she allowed Germany under these arrangements.

ART. 130. Subject to the provisions of Section VIII of this Part, Germany cedes to China all the buildings, wharves, and pontoons, barracks, forts, arms and munitions of war, vessels of all kinds, wireless telegraphy installations, and other public property belonging to the German Government, which are situated or may be in the German Concessions at Tientsin and Hankow, or elsewhere in Chinese territory.

It is understood, however, that premises used as diplomatic or consular residences or offices are not included in the above cession, and, furthermore, that no steps shall be taken by the Chinese Government to dispose of the German public and private property situated within the so-called Legation Quarter at Peking without the consent of the Diplomatic Representatives of the Powers which, on the coming into force of the present Treaty, remain parties to the Final Protocol of September 7, 1901.

ART. 131. Germany undertakes to restore to China within twelve months from the coming into force of the present Treaty all the astronomical instruments which her troops in 1900–1 carried away from China, and to defray all expenses which may be incurred in effecting such restoration, including the expenses of dismounting, packing, transporting, insurance, and installation in Peking.

ART. 132. Germany agrees to the abrogation of the leases from the Chinese Government under which the German Concessions at Hankow and Tientsin are now held.

China, restored to the full exercise of her sovereign rights in the above areas, declares her intention of opening them to international residence and trade. She further declares that the abrogation of the leases under which these concessions are now held shall not affect the property rights of nationals of Allied and Associated Powers who are holders of lots in these concessions.

ART. 133. Germany waives all claims against the Chinese Government or against any Allied or Associated Government arising out of the internment of German nationals in China and their repatriation. She equally renounces all claims arising out of the capture and condemnation of German ships in China, or the liquidation, sequestration or control of German properties, rights and interests in that country since August 14, 1917. This provision, however, shall not affect the rights of the parties interested in the proceeds of any such liquidation, which shall be governed by the provisions of Part X (Economic Clauses) of the present Treaty.

ART. 134. Germany renounces in favour of the Government of His Britannic Majesty the German State property in the British Concession at Shameen at Canton. She renounces in favour of the French and Chinese Governments conjointly the property of the German school situated in the French Concession at Shanghai.

. . . . . .

## SECTION VIII. SHANTUNG

ART. 156. Germany renounces, in favour of Japan, all her rights, title, and privileges—particularly those concerning the territory of Kiaochow, railways, mines, and submarine cables—which she acquired in virtue of the Treaty concluded by her with China on March 6, 1898, and of all other arrangements relative to the Province of Shantung.

All German rights in the Tsingtao-Tsinanfu Railway, including its branch lines, together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploitation of the mines, are and remain acquired by Japan, together with all rights and privileges attaching thereto.

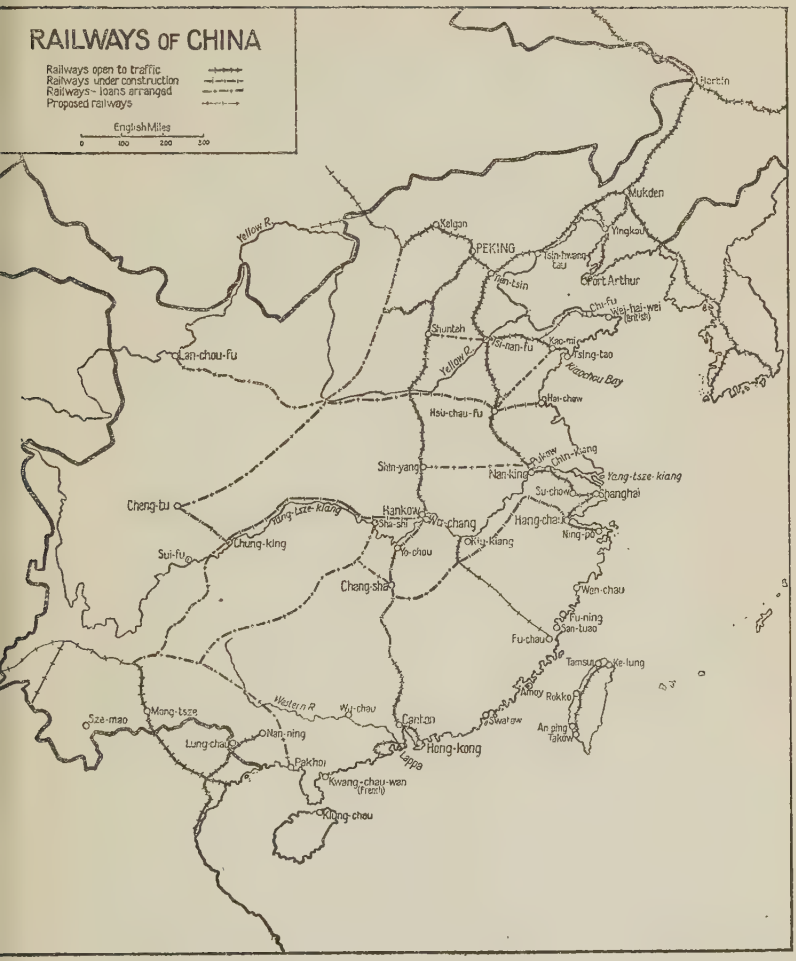
The German State submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges, and properties attaching thereto, are similarly acquired by Japan free and clear of all charges and encum brances.

ART. 157. The movable and immovable property owned by the German State in the territory of Kiaochow as well as all the rights which Germany might claim in consequence of the works or improvements made or of the expenses incurred by her directly or indirectly in connexion with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances.

ART. 158. Germany shall hand over to Japan within three months from the coming into force of the present Treaty, the archives, registers, plans, title-deeds, and documents of every kind, wherever they may be, relating to the administration, whether civil, military, financial, judicial, or other, of the territory of Kiaochow.

Within the same period Germany shall give particulars to Japan of all treaties, arrangements, or agreements relating to the rights, title or privileges referred to in the two preceding articles.

THE PROVINCES
OF
CHINA
English Miles
0
100
200
300
MONGOLIA
MANCHURIA
CHILI
KOREA
TIBET
KANSU
SHANSI
SHANTUNG
SHENSI
HONAN
KIANG-
SU
ANHUI
SZECHUAN
HUPEH
CHE-
KIANG
HUNAN
KIANGSI
KUEICHOW
FUKIEN
YUNNAN
KUANGSI
KUANGTUNG
TAIWAN
TONGKING
HAI-NAN


RAILWAYS OF CHINA
Railways open to traffic
Railways under construction
Railways - loans arranged
Proposed railways
English Miles
0 100 200 300
Harbin
Mukden
Yingkou
Kelgan
PEKING
Yellow R.
Port Arthur
Tien-tsin
Chi-fu
Wei-hai-wei (British)
Shuntzh
Tsi-nan-fu
Kiao-tsi
Tsing-tao
Kiaochou Bay
Lan-chou-fu
Yellow R.
Han-chow
Hsu-chau-fu
Shin-yang
Nan-king
Yang-tsze-kiang
Shanghai
Su-chow
Cheng-tu
Hankow
Wu-chang
Hang-chau
Ning-po
Yang-tsze-Kiang
Sui-fu
Chung-king
Ta-chau
Ok-ki-Kiang
Chang-sha
Wen-chau
Fu-ning
San-tuao
Fu-chau
Tamsui
Ke-lung
Amoy
Rokko
Western R.
Wu-chau
Canton
Swatow
An-ping
Takow
Sze-mao
Mang-tsze
Nan-ning
Lung-chau
Pakhoi
Hong-Kong
Kwang-chau-wan (French)
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